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INS Reporter

Immigration and Naturalization Service U.S. Department of Justice Winter 1979-1980

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The Iranian Student Registration Program
Improving Telephone Service to the Public
Air Operations of the Border Patrol

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INS Reporter

Winter 1979–1980

The United States Department of Justice
Benjamin R. Civiletti, *Attorney General*

Immigration and Naturalization Service
David Crosland, *Acting Commissioner*

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Cover: "Ask Immigration", a taped library system being used by INS, provides callers with information on immigration and citizenship matters. This enables a Contact Representative to handle up to 15 telephone lines at one time, resulting in better service to the public. The caller simply asks for information on a particular subject, and the operator inserts the tape cassette into the playback unit.

The opinions expressed are those of the authors and do not necessarily reflect the views or policies of the Immigration and Naturalization Service.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of this Agency. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 30, 1981.

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The Iranian Student Registration Program

By Stephen J. Krzes
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In November 1979, the Service was suddenly thrust into the middle of the Iranian crisis with a call by the President to identify Iranian students in the United States who were not maintaining their lawful student status. On November 13, Attorney General Benjamin R. Civiletti announced that all Iranian students in the United States would have to report to INS within 30 days to show they were enrolled as full-time students, in compliance with the terms of their visas.

Needless to say, this announcement set off a deluge of inquiries from both the public and the press. Public and media interest for the first two months of this program was far greater than in any other period of crisis, in which INS has been involved, including that of the Indochinese Refugee Program initiated after the fall of South Vietnam.

INS employees have known many periods when with limited resources, they were called upon to extend themselves beyond the norm to perform in an emergency situation. History recounts exceptional Service efforts in the Hungarian, Cuban, and Indochinese Refugee Programs, not to mention the present-day problem of illegal entrants, and the huge workloads resulting from more than 1.9 million applications filed for benefits under the immigration laws.

The President, responding to the grave situation of American hostages held in Iran, directed the Attorney General on November 10, 1979, to "identify any Iranian students in the United States who are not in compliance with the terms of their entry visas, and to take the necessary steps to commence deportation proceedings against those who have violated applicable immigration laws and regulations."

The Attorney General directed INS to issue regulations requiring all nonimmigrant Iranian students to report their present location and status promptly to the nearest INS office. The Service was also directed to take additional actions to identify and locate all Iranian students to determine their immigration status. In compliance with the directive, 8 CFR 214 was amended to require Iranian students in the United States to report within 30 days to the nearest INS office or to an INS representative on campus, and to present certain information verifying location and status as a student.

Under the new regulation, failure to report as required or providing false information to INS would subject a student to deportation proceedings for failure to comply with the conditions of nonimmigrant status. Also, conviction of a crime punishable by imprisonment for more than one year would constitute failure to maintain status.

Responding to the directive, Service personnel began to implement the enormous task of assimilating records into a workable source to identify all Iranian students. Although the order was issued on a holiday weekend, employees throughout the Service were called to report for work to organize the program in their respective areas. Telephone calls were made to colleges and universities notifying them of the reporting requirement, and requesting that all students be notified, and space at the school be provided for the interviews. Interviews began on November 13, 1979, at district offices, suboffices and on campuses throughout the Nation. Directions for starting the interviews were telephoned to regions from the Central Office and followed by wires to insure clarity.

Responsibility for executing the President's directive was that of our Investigations Division. However, because of the enormity of the task and the need to complete the project within 30 days, officers of other divisions were called upon to assist. Approximately 3,000 students were interviewed daily by Investigators, Immigration Inspectors, Immigration Examiners, Deportation Officers, Naturalization Examiners and Border Patrol Agents.

In addition, support staffs acted to establish a daily reporting system to provide data on the student interviews from the district level, through the regional offices, to the Central Office. A report of the daily totals of interviews completed, and related service action, were submitted each day to Acting Commissioner David Crosland for forwarding to the Attorney General and the President.

With the growing anger among U.S. citizens over the situation in Iran, the announcement of this program stimulated considerable correspondence and telephone comment from the American public—both for and against the President's directive. However, it is interesting to note that although many of the comments favored the directive, at the same time concern was voiced over the actual deportation of Iranian students to an unstable homeland. Those against, spoke mainly of the Government's action being unconstitutional, and also questioned the ability of INS to account for all the students in the United States.

During the initial period of registration there were some minor demonstrations by both the American public and Iranian students at some INS offices and at some schools attended by the students. However, these were peaceful gatherings and caused no problems.

On November 27, 1979, the confederation of Iranian students in Washington, D.C. filed a suit before the U.S. District Court for the District of Columbia, to have the order declared unconstitutional. A hearing was held on December 4, 1979, before U.S. District Judge Joyce Hens

Green which resulted in a judgement for permanent injunction against the order.

The plaintiffs argued that the immigration regulation under 8 CFR 214.5 was unconstitutional as it did not give similar treatment to nonimmigrant students of other nationalities.

The Government's position was that the Attorney General has authority under the immigration and Nationality Act to administer and enforce the laws relating to alien immigration and naturalization, to issue regulations governing the admission of nonimmigrant aliens, and to insure the departure of those individuals who violate the terms of their nonimmigrant status. Further, the Government asserted that foreign policy determinations of the President and the Attorney General are not subject to judicial review.

INS suspended the survey of Iranian students on December 11, 1979, after the permanent injunction halting the program was issued by the U.S. District Court. At that point, INS had completed interviews for 53,006 Iranians.

An emergency stay of that order was obtained by the Government from the U.S. Court of Appeals on December 14, 1979. Since the survey was suspended on December 11, the Attorney General on December 17, 1979, extended through December 31, 1979, the reporting period for Iranians who are in this country with student visas. Under the terms of the stay, INS did not enforce deportation proceedings against the students until the legality of the program was decided by the court.

The Government appealed the injunction before three of the nine Circuit Court Judges in the U.S. Court of Appeals for the District of Columbia. Arguments were heard on December 20, and on December 27, 1979, the court ruled the regulation promulgated by the Attorney General at the direction of the President, was constitutional and within the authority delegated by Congress. This ruling was later reaffirmed by the full U.S. Circuit Court of Appeals.

Returning to the task at hand, INS resumed interviewing the Iranian students and by the end of the reporting period on December 31, had interviewed more than 56,000 students. Over 49,000 were found to be in status. The accompanying table shows the results of those interviews.

United States Department of Justice
Immigration and
Naturalization Service
Washington, D.C.

IRANIAN STUDENT REGISTRATION (NOVEMBER 14 — DECEMBER 31, 1979) AS OF FEBRUARY 29, 1980

Interviewed	56,694
In Status	49,327
Found Deportable	6,906
Granted Voluntary Departure	1,076
Order to Show Cause Issued	5,519

The next phase of the program, that of locating those students who failed to report as required by the President's directive, commenced immediately. First it was necessary to review all INS records relating to the students in question, matching field records with Central Office records in order to obtain the most current information possible on each student. When the matching is completed, the information is sent to the district office concerned for a follow-up investigation. Through February 1980, INS Investigators had located some 759 deportable Iranian students.

Service employees have done their usual outstanding job in a time of crisis. The success of the program is due to the excellent attitude of Service personnel and the diligent effort on the part of all who are participating. There are those who doubted our ability to conduct this program, but INS people again demonstrated an ability to rise to the occasion and exert the extra effort necessary to carry out this assignment despite numerous problems, limited manpower and limited resources.

With the experience gained from this program, INS is considering tighter controls on all foreign students in the U.S. Consideration is being given to requiring all foreign students to report to INS to verify their status and location, as was done with the Iranian students. Other changes under consideration are: requiring all students, who now are admitted for the duration of status, to report periodically to INS to obtain extensions of stay; establishing a central file containing copies of the records and documents of each student; and closer monitoring of schools approved for acceptance of foreign students to insure compliance with the law. ■

Changes in the Regulations

Under Title 8, Code of Federal Regulations:

Consult 44 FR 65726, Nov. 14, 1979, Sections 214.1 and 214.5.

44 FR 75165, Dec. 19, 1979, Section 214.5(a).

45FR 6776, Jan. 30, 1980, Sections 282.1; 299.1 through 299.4; and 499.1.

45 FR 10312, Feb. 15, 1980, Section 238.4.

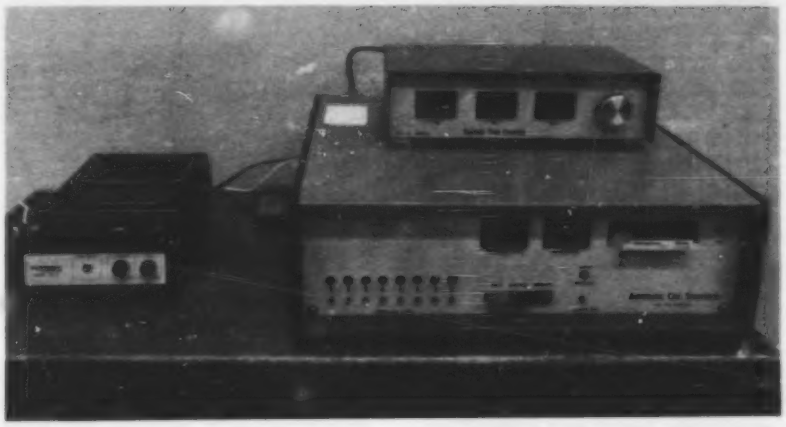
45 FR 10313, Feb. 15, 1980, Sections 334.16; 336.16; and 341.1.

45 FR 11113, Feb. 20, 1980, Section 212.6.

45 FR 13434, Feb. 29, 1980, Section 100.4(c)(2).

Improving Telephone Service to the Public

By Neill J. McKay
Program Manager
Electronics Support
Office of Operations Support



Automatic answering, sequencing and holding equipment at the Miami office. Shown on the right is an eight-line sequencer with an elapsed time counter on top. The latter monitors the time callers have been placed on hold and can provide an audible or visual alarm when specified holding times have been exceeded. On the left is a tape cassette containing prerecorded general information which is played to those callers on hold.

Virtually everyone in his or her lifetime has encountered a situation in which a request for service has been frustrated due to the lack of immediate facilities to serve his demand. When we shop, for example, we are often forced to wait until a clerk has finished with another customer; when attending the movies, we often have to "queue up" at the ticket window; during the height of the summer season on our way to a seashore resort, we wonder if we will ever reach the entrance to the thruway, bridge or tunnel; and when we call the nearest Immigration Service office for information, we wonder if we will ever get through! Each of these examples exhibits one factor in common: Momentarily, the demands for service *exceed* the facilities provided to accommodate them and, thus, some demands are not met.

This is the essence of what is called the "Traffic Problem" and in order to effectively solve it, sufficient information is required about the nature of the demands, the facilities available to satisfy these demands, and the meaning and importance of service objectives.

Background

Two years ago, as part of the Model Office Project initiated at our Houston District Office, the Electronics Support Program was asked to investigate the telephone traffic problem at Service offices and explore ways of improving our telephone information service to the public. The project became known as TIPS an acronym for *T*elephone *I*nformation *P*rocessing *S*ystem.

The difficulty the public frequently experiences in contacting many of our District Offices by telephone is not a new situation. However, it has become increasingly exacerbated not only by the overwhelming number of calls for general information, but also repeated inquiries relating to large numbers of pending applications for benefits under the law. The latter have created huge backlogs in the records and adjudications activities, which have in turn caused telephone lines and circuits to become heavily congested in some areas. For example, a recent telephone company traffic survey of the information lines into the Los Angeles District Office indicated an average of 9,000 call attempts daily!

Anytime you have a large population requesting information and there are insufficient facilities (lines, equipment, personnel, etcetera) to accommodate the demand, you are going to have telephone circuit congestion. This occurs in many areas, such as when contacting train stations, airlines, department stores, and other government agencies.

However, because of the complexities of immigration law, generally there are few alternative sources for the information sought which encompasses a wide range of immigration subjects. Requests can vary from those of a general information nature to more complex inquiries involving extensive, detailed responses.

INS telephone facilities were drastically inadequate and overloaded resulting in callers encountering excessive "busy" signals. There was no automatic answering mechanism either to handle callers in priority order or to place callers on hold until they could be handled. There was very little definition of the problem and scant data on its severity.

Thus, the TIPS Project is the first, concerted, longterm effort by INS to research and investigate the telephone problem, define and specify parameters, set specific and realistic measurable objectives of improvement, and explore alternatives to meeting these objectives.

Objectives

In developing an effective Telephone Information Processing System it was determined that the ideal system would include the following objectives in order to achieve a desirable level of service: reducing the number of incoming calls; reducing the average duration of each call; in-

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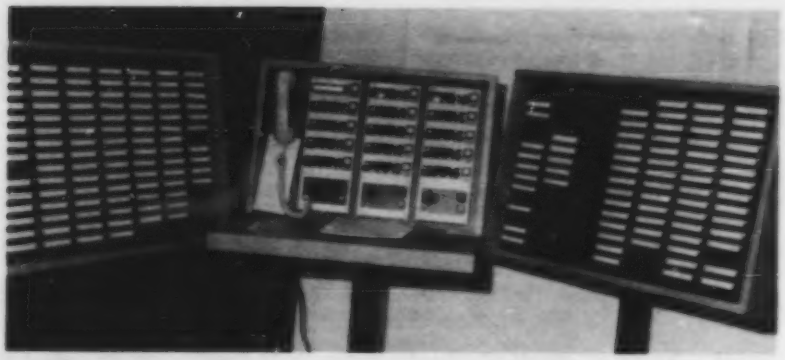


An overall view of the tape library system in use at the Los Angeles office shows the tape player console situated in the center, with 15 slots for taped messages, and with the tape storage racks located on each side.

creasing the number of servers (lines and people); separating requests for application forms and general information from specific information required from a Contact Representative; continual adjustment of the size of the work force in accordance with the traffic load; and improving procedures for handling calls.

With these objectives in mind, we proceeded to install a telephone system which, first of all, provided additional lines and equipment to increase the call-handling capability. The system automatically answers calls, places them on hold, monitors the holding time, and handles them in priority order on a first-come, first-served basis. While on hold, prerecorded information such as office hours, number to call for forms and other general information, is played to the caller. In some offices, bilingual recorded information is played to accommodate the large number of Spanish-speaking persons who deal with INS.

In addition, the TIPS system provides a message center for automatically tape recording requests for forms and applications. The tapes are then transcribed by clerical personnel at off-peak hours. With the capability for monitoring telephone line activity and holding times, we are able to adjust the work force size in accordance with the traffic load. We are also able to monitor the number of completed calls, the number of abandoned calls, average hold times and average service times, so that we can determine what, if any, additional steps should be taken to improve service.

Status of Tips

At present, TIPS systems have been installed in 13 District Offices around the country. It is planned to expand the program to additional offices in FY 1980 and FY 1981 as part of our continued efforts to improve service to the public.

To illustrate a measure of effectiveness of TIPS, the Atlanta District Office in September 1977, prior to TIPS, was handling on the average only 55 percent of all attempted calls. And, during the peak hours, was only handling 35 percent, with average conversation and holding times of 3–4 minutes. After TIPS was implemented, 90 percent or greater of all attempted calls to this office, even during the busiest hours, were being handled with average conversation and holding times of two minutes.

To accomplish improved service, TIPS employs a judicious mixture of equipment, staffing, workload and procedures. At Atlanta, telephone lines were increased from two to four, and the number of available Contact Representatives also increased from two to four. However, the additional two Contact Representatives are used only during peak periods. Installation of one line for requesting "forms only", along with a message center has resulted in the processing of at least 40 requests for forms per day.

An added benefit has been the reduction in the number of calls received by operating units from individuals seeking information on the status of an application. TIPS has provided a more efficient information system of responding to callers, allowing them to receive attention with a minimum of waiting time.

The tape library holds 100 tapes, 50 in English and 50 in Spanish, containing general information on immigration and citizenship matters.

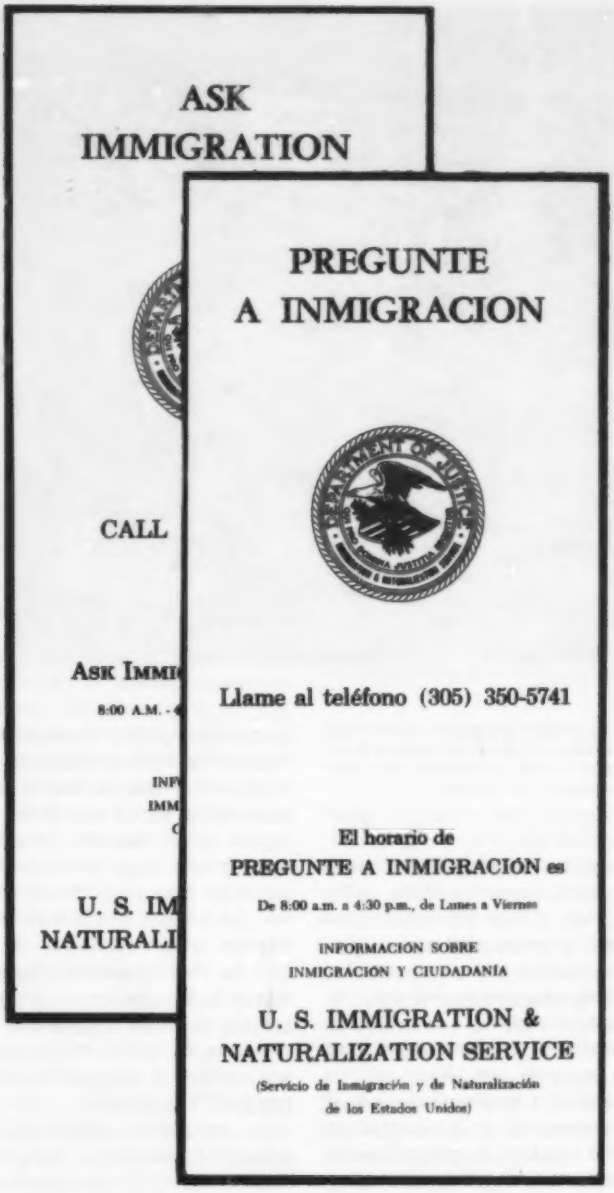
It is interesting to note that based on a traffic survey of the Atlanta Office, telephone company representatives recommended a minimum of seven servers on seven lines, 100 percent of the time, to achieve approximately the same level of service the Atlanta office is presently providing with just four servers, two of which are not utilized 100 percent of the time. However, one important result of this project was that many of the calls, prior to TIPS, were apparently due to repeated attempts by the same caller. These were effectively eliminated when an adequate system was established.

The Teletronix System

As a part of the TIPS project, we are now experimenting with a tape library system in providing extensive general information to the public. The system, entitled "Ask Immigration", combines the standard telephone system with a multichannel tape library system to provide information on immigration and citizenship matters. It was introduced in the Los Angeles office on October 22, 1979 and in the Miami office on November 14, 1979. INS is believed to be the first Federal agency to provide this type of service.

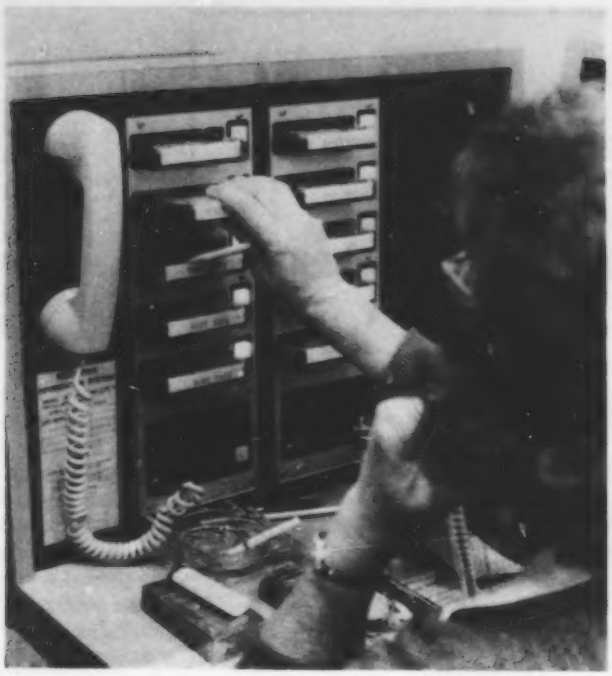
Information on selected general topics such as citizenship, adjustment of status, alien registration, extensions of stay, etcetera, are professionally prerecorded on numbered tape cassettes and played to the caller upon request. A total library of 100 tapes, 50 in English and 50 in Spanish, are being used initially by each office. Some 15,000 brochures, containing the tape library list and instructions, were disseminated to the public. The Miami office is presently handling approximately 350 additional calls per day with the new system.

When a person telephones to request information by tape number, an operator, usually a Contact Representative, selects the appropriate cassette and inserts it into a playback unit. The tape plays automatically, stops at the end of the message, and may be adjusted to either disconnect the telephone line or place the caller on hold for additional information.



Brochures in both English and Spanish are disseminated to the public, containing a listing of the information available in the tape library and instructions for obtaining this information.

It is believed that a number of benefits are to be gained from the "Ask Immigration" concept. For example, one Contact Representative with the aid of taped information, can handle up to 15 telephone lines at one time. The recorded information presents an accurate verbal essay of various typical immigration matters, at no cost to the public, which has been professionally prepared and reviewed by immigration officials. The information is easily ac-



The tape is inserted into the playback unit which may be adjusted to either disconnect the telephone line or place the caller on hold for additional information following completion of the message.

cessible to the public, is continually updated, and anonymity of the caller is preserved. It also promotes good community relations and we are beginning to receive many compliments from callers who previously only received busy signals.

The Teletronix systems installed at our Los Angeles and Miami offices are undergoing evaluation and, if proven successful, it is planned to expand the concept to other Service offices. Also, plans call for providing this capability in INS information and reception areas for use by walk-ins.

Conclusions and Future Considerations

It has been found that TIPS can definitely improve the telephone call-handling capability of a particular office by a suitable mix of equipment, staffing, workload, and procedures.

Similar types of improvements can be expected in other INS offices presently under evaluation. The major difficulty in evaluating a system is securing the technical data and information which will assist in coming up with a solution. Since we are dealing with large numbers of diverse inquiries occurring at random times, we cannot just guess how many additional telephone lines are needed or how much increased staffing is needed. To arrive at an effective system requires a scientific analysis of all the ifs, ands, and buts, and we are continuing research to devise improved TIPS designs.

As telephone company-provided equipment becomes more sophisticated, the TIPS concepts will also benefit. For example, the day will come when an automatic call-back procedure will be possible. Callers to an office, who either encounter a busy signal or who after waiting a specified maximum time, would be automatically called back within a specified period of time. Another possibility is the automatic rerouting of calls to another office during extremely busy periods.

Since the INS Information Section represents a microcosm of the entire district office, I would envision each office someday possessing its very own private automatic branch exchange (PABX). With a PABX to serve the entire district office, all incoming calls could be screened at the information center and routed to the appropriate contact to be disposed of quickly and efficiently. The PABX would automatically adapt itself to increases and decreases in traffic intensity, and management information data could be constantly monitored by a supervisor and the size of the work force dynamically adjusted. Calls could be identified as local or long distance and necessary action taken to insure minimum holding times.

Beyond the information center, the entire district office's activities would be significantly enhanced due to the many features of today's PABX's. ■

Air Operations of the Border Patrol

By M. Dale Burt
Chief Pilot
Border Patrol
El Paso, Texas

The air operations of the Border Patrol have changed very little over the years. Aircraft have been used as an enforcement tool since the early forties, and the one airplane which set the pattern for an effective air operation was the 1951 Piper Cub. With the horsepower increased from 65 to 150, this plane became known as the "Super Cub" and has proved so versatile, dependable and economical that it continues to excel over any other airplane for the type of work performed. It is depended upon as

the main airborne mobile platform of the Border Patrol.

With the use of aircraft, the Border Patrol was able to establish a coordinated ground-air patrol which has proven to be very effective through the years in the overall enforcement efforts of the Service. Vast amounts of territory can be patrolled rapidly, eliminating unproductive and wasted efforts by ground units. The Border Patrol Pilot is able to direct ground units to productive areas with a minimum loss of time; he can assist in planning farm and ranch check operations by looking over country inaccessible to ground units; gather intelligence through observation of potential illegal entries; and relay information to ground units of possible undocumented aliens observed on freight trains and other conveyances. All of these air activities help in utilizing our manpower more efficiently.

Border Patrol Pilots will skim the desert in their Super Cubs, looking for tracks of illegal border crossers.

Aerial Sign Cutting

Although all Border Patrol Agents learn to use sign cutting techniques in tracking illegal entrants, it is interesting to note that Border Patrol Pilots also use this skill which, I might add, is applied while traveling over the ground at 60 miles per hour in their Super Cubs. This is no small accomplishment when you consider he is moving along at 88 feet per second. Of course, aerial sign cutting requires a good knowledge of sign cutting from the ground. Therefore, some of the same techniques used on the ground are applied to aerial tracking procedures.

Certainly, the pilot has other considerations which dictate the success or lack of success in tracking individuals from the air. For example, he must consider airspeed, altitude, lighting conditions, turbulence, and terrain, while at the same time analyzing and interpreting whatever tracks are spotted below.

Experience teaches the pilot how to distinguish between fresh tracks and old, the effects of weather on the various sign, and whether several aliens are walking one behind the other or side by side. In addition, he learns the territory thoroughly so that he is continually oriented, knows the best places for cutting sign, the probable routes of aliens, locations of fences, roads and landmarks, as well as the farms and ranches in the area.

With all of these things which must be considered, the pilot soon learns to fly his aircraft by instinct. He knows his limitations and capabilities, as well as that of his aircraft.

Air-Ground Teamwork

A normal air-ground operation will have both the pilot and the ground unit cutting sign, looking for evidence of illegal crossings. A typical trail of aliens is five, crossing just at dark. The Border Patrol Agent may have already cut the sign of the five aliens across his drag road and advised the pilot by radio of the location, description, and general direction.

As the Agent walks or drives along the tracks, he keeps the pilot informed of any change in direction or of changes in the sign, such as lack of rain drops or blown sand in the tracks. Lack of dirt from dew or absence of night crawling creatures are all clues to the sign cutter.

The pilot, flying ahead of the tracker, looks for additional sign of illegal entrants, and along the way checks tanks and windmills where aliens may have taken refuge for the day to remain out of the heat. If the pilot locates the aliens, he radios for the ground unit to come in and circles the area until the unit shows up.

The methods used by undocumented aliens to reach their destinations in the U.S. interior are becoming increasingly more ingenious. They cross the desert during periods of strong winds or when it is raining or snowing, so they won't leave any signs. Frequently, they walk single file, stepping in each others tracks, jumping across roads, brushing tracks out as they cross roads and fences, and walking backwards to make the Patrol Agent believe he is headed toward Mexico rather than the U.S. These are just some of the ruses he will use to elude apprenhension, but air-ground teams take all of these elements into consideration in determining whether to continue the pursuit.

Air and ground units work as a team in locating illegal border crossers. With the pilot tracking ahead of the ground unit, he can spot the location of the aliens and relay the information back so that the unit can move directly to the spot with no waste in time or effort. (Photo by Don Dornan)

Chief Pilot

With a compliment of 50 pilots, 28 fixed wing aircraft, and three Hughes helicopters, spead over some 10 Border Patrol Sectors on the southern border, INS decided that a Chief Pilot was needed to coordinate the Air Operations Program of the Service. Although all Border Patrol Pilots serve under the direct supervison of the Chief Patrol Agent of the Sector, there are many technical areas of the program which require guidance and direction from an experienced pilot.

Thus, in November 1978, a Chief Pilot position was established under the Assistant Commissioner, Border Patrol, in the Central Office. However, the position was physically placed at Border Patrol Sector Headquarters in El Paso, Texas, rather than in Washington, D.C., so that the Chief Pilot would be accessible to the pilots and vice versa.

A homemade raft, spotted from the air, appears ready for use in crossing the Rio Grande to the United States.

The Chief Pilot is responsible for pilot proficiency checks, pilot training, testing applicants, inspection of aircraft and maintenance facilities, and investigation of accidents or incidents. He also maintains liaison with the various Sector Chiefs, providing assistance in evaluating the assignment of aircraft and pilots, and recommending changes, where appropriate.

Pilot Selection

All pilots are selected from qualified applicants through the Service's Merit Promotion Plan. He must have logged a minimum of 1500 hours flight time, including 250 hours pilot-in-command hours in fixed wing aircraft, and have flown 100 hours in the last year. The applicant must also hold a valid commercial pilot's license, an instrument rating, and a first class airman physical.

The position of helicopter pilot is filled in the same manner as fixed wing pilots except an applicant must have logged 1500 hours, including 250 pilot-in-command hours in helicopters. The 100 hours in the last year may be in any aircraft. Since the Hughes 500C Helicopter is not certificated by the manufacturer for instrument flying, helicopter pilots are not required to have an instrument rating. However, if a helicopter pilot wants to become an aircraft pilot, that is flying both fixed wing and helicopters, then he must meet all of the other requirements mentioned.

Following selection of an applicant for a pilot position, he must first undergo an inflight evaluation by the Chief Pilot. Among other things, this involves an instrument proficiency

check to determine the ability of the applicant to fly by instruments only.

The journeyman Border Patrol Pilot in addition to his flight duties, must maintain instrument proficiency as well as night qualification. This is Service policy as well as an FAA requirement. Also, a Biennial Flight Review is given in accordance with FAA regulation. The Border Patrol check pilot must be a certificated Flight Instructor in order to administer the check rides and sign each pilot's log book to indicate he meets the minimum FAA requirements.

A newly selected pilot will receive on-the-job training as he progresses through his first year of flying. Although he may be a very competent, experienced pilot, the type of flying performed for the Border Patrol is more critical and demanding. For one thing, the new pilot has altitude and speed limitations placed on him which will require his working slowly toward performing the type of flying that will allow him to use his aircraft to its fullest potential.

Thus, the first year is spent in training; learning how to apply his knowledge of flying, his experience as a Patrol Agent and his knowledge of the Sector. Each pilot will have to learn his own capability and those of the aircraft he flies. He has to rely on his sense of touch to be able to fly his aircraft at slow speeds and remain above the stall speed while attention is diverted outside of his aircraft. He has to learn how to work with ground units. He has to know how to direct these units and use them in the most effective way to accomplish the mission.

An important part of the pilot's job is to understand and gain the cooperation and support of the Patrol Agents he works with everyday. Without good rapport, neither the pilot nor the ground team will be able to function effectively in their jobs.

Aircraft

In addition to the Super Cub mentioned earlier, we have the Cessna 182 which has been in use since 1956. This aircraft has proven to be very dependable for farm and ranch check operations. Since the seating is side by side, and the stall speed is higher than that of the Super Cub, it cannot be used as successfully for sign cutting. However, equipped with long-range fuel tanks, this aircraft allows pilots to respond to remote areas and spend longer times on station without refueling.

In about 1970, a private company invented a way to reduce stall speed, increase cruise speed and give an aircraft better slow flight characteristics. After factory demonstrations proving their claims, the Service included the modification on all of their subsequent purchases of Cessnas.

The Super Cub remains basically the same since it was designed in the late thirties. The airframe and wing have been strengthened to accommodate the 150 horsepower engine. Flaps have been installed to decrease stall speed from 47 miles per hour to 43 miles per hour.

Over the years, the Service has tested many aircraft which have been advertised to equal or better the Super Cub. None, however, have the superior slow flight charcteristics desirable for Border Patrol use.

The helicopter has been suggested for many years as a replacement for the Cub and, eventually it may, when there are no longer Cubs available.

The Chula Vista Border Patrol Sector has two Hughes 500C Helicopters which have proven to be very effective. Equipped with a high-powered search light for night operations, the helicopter responds quickly to sensors and to assistance calls from Patrol Agents. The noise it makes while in operation is a deterrent to illegal entry, and allows the ground units a certain amount of flexibility when it is in the area.

The El Paso Border Patrol Sector has been evaluating an OH-6A military version of the 500C Helicopter

The teamwork of Border Patrol air and ground units has flushed some aliens from the thick brush.

Airplane and Helicopter Pilots confer on the activity in the area to be patrolled. The two rarely fly together; the fixed wing aircraft is used mainly during the day and the helicopter at night.

since June 1979. There have been some problems due to the 4,000 feet altitude of the area. Summer temperatures cause a density altitude of 7,000–8,000 feet which has an effect on the lift characteristics and causes high engine temperatures. However, it is believed with increased horsepower, these problems can be overcome.

In October 1979, the El Paso helicopter only flew 14 or 31 days, but assisted in 28 percent of the apprehensions during that month.

During FY 1979, helicopter patrol at Chula Vista accounted for 51,494 apprenhension assists. In addition to its regular duties, frequently the helicopter is called upon to assist local law enforcement officers. Three recent incidents come to mind in which the helicopter was called in to assist the San Diego Police Department in making felony arrests.

The first incident occurred on July 12, 1979, when a group of undocumented aliens were apprehended in the area of Sunset Avenue and San Ysidro Boulevard. The group claimed they had been robbed by a male suspect in the area of the horse corrals on Calle Primero. The San Diego Police began a search of the area and, at the same time, requested assistance of the Border Patrol helicopter. The helicopter arrived at the scene and almost immediately flushed out the suspect, who was apprehended and positively identified as the robber.

Another robbery incident occurred two days later in the area of the riverbottom at Sunset Avenue and Hollister Street. A group of undocumented aliens who were apprehended by the Border Patrol complained they had been robbed by several armed men near a campsite in the riverbottom. The San Diego Police were notified and two units were sent to investigate. The Border Patrol helicopter was called in, and along with a Border Patrol ground team and the local police, located two armed men who were taken into custody and identified.

The third incident occurred on August 11, 1979, when Border Patrol Agents working the levee heard gunshots coming from a field where numerous alien robberies have occurred in the past. The Border Patrol Agents notified the San Diego Police and assisted in surrounding the field to await the arrival of the heliopter. It arrived shortly, swept the field area with its spotlight, causing several male juveniles to flee on foot from their hiding place. The police and Border Patrol units converged on the group and apprehended four suspects, one of which was armed with a sawed-off rifle. All were arrested.

These are but a few examples of the mutual cooperation which exists between the Border Patrol and local authorities. Such cooperation is experienced in most every community where the Border Patrol coexists with other law enforcement agencies.

With an aerial observation capability, the Border Patrol is able to work more efficiently and effectively in its efforts to deter and prevent illegal entries. Throughout the years, the Air Operations Program has been of major benefit to Service efforts in carrying out its enforcement responsibilities. ■

Administrative Decisions

(Due to space limitations it is possible to print only an index and identifying paragraph on each precedent decision. Copies of the decisions may be seen at any local office of the Immigration and Naturalization Service. Copies may also be purchased on a yearly subscription basis ($50. per year, $12. extra for foreign mailing) from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The Decisions will be printed later in bound volume form. Volumes of past Administrative Decisions are on sale at the Government Printing Office in Washington. **Note: Decisions missing from the numerical sequence have not at this printing been released for publication.)**

Number 2650–Matter of Davis. In Exclusion Proceedings A-7449011. Decided by BIA May 24, 1978.

(1) In cases involving loss of American citizenship, the law and the facts are to be construed as far as reasonably possible in favor of the claimant.

(2) Under the provisions of section 349(c) of the Immigration and Nationality Act, the burden is on the one asserting that a loss of citizenship occurred to prove that claim by a preponderance of the evidence.

(3) A voluntary renunciation of nationality in accordance with section 401(f) of the Nationality Act of 1940 (section 349(a)(6), Immigration and Nationality Act), was effective to accomplish expatriation even if the former citizen did not acquire another nationality, and became stateless.

(4) An Oath of Renunciation pursuant to section 401(f) of the Nationality Act of 1940 accomplished expatriation where there was a specific intent to renounce all allegiance to the United States and to become a "world" citizen.

(5) Since the United States is not a signatory to the United Nations Convention on the Reduction of Statelessness, U.N. Doc. A/CONF. 9/15 (August 29, 1961), its provisions have no applicability to loss of United States citizenship. Even if this were not the case, the Convention provides for voluntary renunciation of citizenship with resulting statelessness "where the national . . . gives definite evidence of his determination to repudiate his allegiance."

(6) One who has lost United States citizenship by a voluntary oath of renunciation is no longer a national of the United States since a renunciation of citizenship embraces a renunciation of American nationality as well.

(7) Former citizen who executed an Oath of Renunciation of United States citizenship in 1948 to become a citizen of the world, who left the United States in 1961 and lived abroad for many years after his reentry permit expired, remarried in France, established a business, had three children born in that country, and entered the United States as a visitor in 1975, 1976 and 1977, held to have abandoned his status as a lawful permanent resident alien.

Number 2652–Matter of Siqueiros. In Exclusion Proceedings A-17176637. Decided by BIA May 24, 1978.

(1) The fact that a lawful permanent resident commuter is only working part time in this country, while he attends a United States school, does not cause him to necessarily lose his lawful permanent resident status.

(2) Former commuter who lives in rented trailer while attending college, where he has regular part-time employment, and who visits family in Mexico on weekends, held to have established a residence in the United States and to be no longer a commuter.

Number 2653–Matter of Yam. In Deportation Proceedings A-15950259. Decided by BIA May 30, 1978.

(1) An alien does not effect an entry into the United States unless, while free from actual or constructive restraint, he crosses into the territory of the United States and is inspected and admitted by an immigration officer, or actually or intentionally evades inspection at the nearest inspection point.

(2) An alien found floating in Niagara River, and brought by police while unconscious to a hospital in the United States where he was turned over to the Border Patrol, did not effect an entry.

(3) Deportation proceedings ordered terminated as to alien found in Niagara River and brought into the United States while unconscious, since exclusion was the proper procedure.

Number 2654–Matter of Rahmati. In Visa Petition Proceedings A-17019199. Decided by BIA June 26, 1978.

A determination by an immigration judge in rescission proceedings that an alien was accorded nonquota status as the spouse of a United States citizen by reason of a nonviable marriage does not preclude the alien under section 204(c) of the Immigration and Nationality Act, 8 U.S.C. 1154(c), from obtaining immigration status under a new visa petition since it does not follow from the fact that a marriage is nonviable that it was entered into for the purpose of evading the immigration laws.

Number 2655–Matter of Au Yeung. In Visa Petition Proceedings A-13856216. Decided by BIA June 28, 1978.

(1) The Board of Immigration Appeals does not have jurisdiction to consider whether a beneficiary of a visa petition, who was once accorded lawful permanent resident status, has abandoned that status, when the Board has before it an appeal from the denial of a visa petition.

(2) An alien, who is admitted to the United States as an "eligible orphan" pursuant to section 101(b)(1)(F) of the Act, and is never adopted by the petitioning United States citizen "parent," and who leaves the United States, is not eligible for preference status as the "son" of the petitioning United States citizen "parent" since that relationship never came into existence.

Number 2656–Matter of Man. In Visa Petition Proceedings A-21080157. Decided by BIA June 29, 1978.

A concubine (*tsip*) cannot derive an immigration benefit through children born to her "husband" and his principal wife, and a visa petition by the "child" in behalf of the claimed "stepmother" will be denied since the sole relationship between the parties is the polygamous "marriage."

Number 2657–Matter of Agdinaoay. In Visa Petition Proceedings A-31346917. Decided by BIA June 30, 1978.

A finding of deportability under section 241(c)(2) of the Act, 8 U.S.C. 1251(c)(2), in a final order of deportation provides a clear and substantial basis for a District Director's determination that the section 204(c) bar precludes the respondent from thereafter being accorded a nonquota or

visa preference status, *absent* evidence of any gross miscarriage of justice sufficient to support a collateral attack on the prior deportation proceedings.

Number 2658-Matter of Konishi. In Deportation Proceedings A-19807195. Decided by BIA July 5, 1978.

Self-employed professional artist does not qualify for exemption from the labor certification requirements of section 212(a)(14) as an investor where "investment" consists solely of an inventory of his own paintings along with the furnishings for a one-man gallery because the gallery is the mere conduit for the sale of the products of the alien's own labor and no showing is made that the "business" would expand job opportunities so as to offset any adverse impact of his employment.

Number 2659-Matter of Dejong. In Exclusion Proceedings A-22461648. Decided by BIA July 14, 1978.

(1) Under section 235(b) of the Immigration and Nationality Act, an immigration judge did not have jurisdiction to consider the admissibility of the "alien crew members" of M/V Dosina, an oil tanker which operated as a lightering vessel, off the coast of California, who had applied for temporary permission to land as "alien crewmen."

(2) When the immigration inspector found that the alien crew members did not qualify as "bona fide crewmen," the proper procedure was to refuse them conditional landing permits. See 8 CFR 252.1(g).

Number 2661-Matter of Spilliopoulos. In Bond Proceedings A-21137443. Decided by BIA July 20, 1978.

(1) The jurisdiction conferred upon an immigration judge under 8 CFR 242.2(b) to redetermine the custody status of a detained alien includes the authority to increase the amount of bond initially set by the District Director.

(2) An alien should not be detained to post bond unless there is a finding that he is a threat to national security or a poor bail risk.

(3) Where respondent, an airlines employee, resided in this country a relatively brief period of time (one year), exhibited a disregard for our laws by beginning to work shortly after he was admitted as a nonimmigrant visitor for pleasure, has a wife and child who are here illegally and does not have the family ties that would entitle him to reside here permanently at some future date, a bond was appropriate.

(4) Reduction in amount of bond found warranted by Board, where there was a lack of any prior immigration or criminal record or history of nonappearance at court proceedings and respondent has a fixed place of residence.

Number 2666-Matter of Marin. In Deportation Proceedings A-13923847. Decided by BIA August 4, 1978.

(1) An application for discretionary relief under section 212(c) of the Act necessitates a balancing of the adverse factors of record evidencing an alien's undesirability as a permanent resident with the social and humane considerations presented in his behalf to determine whether the granting of relief is in the best interests of this country.

(2) A statutorily eligible applicant who has the right to apply for relief under section 212(c) must be given the reasonable opportunity to come forward with favorable considerations which may offset the adverse matters of record.

(3) The equities that an applicant for relief under section 212(c) must bring forward to establish that favorable discretionary action is warranted will depend in each case on the nature and circumstances of the ground of exclusion sought waived and on the presence of any additional adverse factors (factors previously deemed favorable and unfavorable set forth).

(4) An applicant for discretionary relief under section 212(c) who has been convicted of a serious drug offense must demonstrate "unusual" or "outstanding" countervailing equities before a favorable exercise of discretion will be considered.

(5) An applicant for relief under section 212(c) has a criminal record will ordinarily be required to make a showing of rehabilitation before relief will be granted as a matter of discretion.

(6) There is no irrebutable presumption that a confined or recently convicted alien can never establish either that rehabilitation has occurred or that relief under section 212(c) should otherwise be granted.

(7) The recency of a conviction and the fact of confinement are matters relevant to the consideration of whether an alien has demonstrated his rehabilitation and whether relief should be granted as a matter of discretion.

(8) A District Director is not required to withhold the issuance of an Order to Show Cause in the case of a confined or recently convicted alien who is statutorily eligible for relief under section 212(c) in order to provide the alien a better opportunity to demonstrate his rehabilitation.

(9) The decision to institute deportation proceedings is vested in the discretion of the District Director and the Board of Immigration Appeals is not the proper forum in which to seek a review of the rationale underlying a District Director's decision in this regard.

Number 2667-Matter of Pereyra. In Deportation Proceedings A-21036029. Decided by BIA August 10, 1978.

An exchange visitor who is no longer subject to the foreign residence requirement in view of the amendment of section 212(e) of the Immigration and Nationality Act is not precluded from establishing statutory eligibility for suspension of deportation notwithstanding the provisions of section 244(f)(2) barring exchange visitors from that relief.

Number 2674-Matter of Shen. In Visa Petition Proceedings A-21676973. Decided by BIA October 4, 1978.

(1) As a general rule, a visa petition submitted by a mother on behalf of a child, regardless of the beneficiary's age, must be accompanied by the

birth certificate of the child showing the name of the mother.
(2) Since birth certificates are nonexistent or unavailable in many countries, the Immigration and Naturalization Service may require secondary evidence in support of a visa petition such as civil, church or school records, and photographs, as well as proof of unsuccessful efforts to obtain documentation.
(3) For persons born in Taiwan, an extract of household registration (showing the birth date and the names of the parents of each household member) is an official record comparable to a birth certificate for the purpose of establishing that the parties to a visa petition proceeding are mother and child.
(4) Where the petitioner failed to submit a Taiwanese extract of household registration respecting the birth of the child beneficiary but did submit supporting affidavits, a divorce agreement, and a renunciation of guardianship, case remanded to allow petitioner reasonable opportunity to submit additional evidence such as the extract of household registration or to explain its unavailability.

Number 2675-Matter of Da Lomba. In Deportation Proceedings A-30442750. Decided by BIA July 14, 1978.
(1) An alien found deportable under section 241(a)(2) and section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2) and 8 U.S.C. 1251(c)) for having entered the United States by means of a fraudulent marriage, who was not otherwise inadmissible, may invoke section 241(f) nondeportability. **Matter of Diniz**, Interim Decision 2428 (BIA 1975), reversed.
(2) Section 241(f) forgives deportability under section 241(c), a charge grounded squarely on section 212 (a)(19), 8 U.S.C. 1182(a)(19).
(3) Section 241(f) forgives deportability under sections 241(a)(1) and 212(a)(20) when there has been compliance with the immigrant visa requirements and the entry document is invalid because of fraud.
(4) Section 241(f) does not forgive deportability under sections 241(a)(1) and 212(a)(14).

Number 2676-Matter of Chheav. In Deportation Proceedings A-22417010. Decided by BIA October 18, 1978.
(1) An alien seeking adjustment of status as a nonprincipal alien under the provisions of the Act of October 28, 1977, Public Law 95-145, 91 Stat. 1223, relating to spouses and children of Indochinese refugees need not have an approved visa petition as a prerequisite for that relief.
(2) Adjustment of status will be granted under the provisions of Public Law 95-145 to one claiming eligibility as the spouse of an Indochinese refugee eligible for relief under that Act as a principal only upon a showing that the marriage is one recognizable for immigration purposes.

Number 2677-Matter of Garcia. In Visa Petition Proceedings A-21304828. Decided by BIA November 16, 1978.
(1) Under the provisions of the Texas Family Code, Section 1.91, a common-law marriage may be shown by establishing three factors: (1) an agreement by the parties to be married, (2) living together in Texas after resentation to others by the parties that they are married.
(2) Under the Texas Family Code, Section 1.91(b), the agreement of the parties to be married may be inferred if it is proved that they lived together as husband and wife and represented to others that they were married.
(3) In a Texas common-law marriage, agreement is fundamental and cohabitation is an element, but holding out to the public that two persons are husband and wife is essential. **McChesney v. Johnson**, 79 S.W. 2d 658 (Civ. App. 1935).
(4) Where Immigration and Naturalization Service offered as proof of a prior undissolved common-law marriage, only the birth certificates of petitioner's five children listing the purported common-law husband as the father, and the petitioner as the one providing the information, the proof of holding out and cohabitation was inadequate, and the petition will be approved.
(5) Under Texas law, reputation and cohabitation are at best only presumptive proofs of common-law marriage and where either of those grounds fails, it is not correct to build the presumption of marriage on the other. **McArthur v. Hall**, 169 S.W. 2d 724 (Civ. App. 1943). ■

Number 2678-Matter of Carrillo. In Deportation Proceedings A-31073471. Decided by BIA, Nov. 28, 1978.
An alien convicted of "Unlawful Carrying of a Firearm during the Commission of a Felony" (18 U.S.C. 924(c)) is not deportable under section 241(a)(11) of the Immigration and Nationality Act, 8 U.S.C. 1251(a)(11), even though the underlying felony is the illicit possession of heroin, since 18 U.S.C. 924(c) is not "a law . . . relating to the illicit possession of a narcotic drug." *Castaneda de Esper* v. *INS*, 557 F.2d 79 (6 Cir. 1977) and *Matter of Velasco*, Interim Decision 2601 (BIA 1977) followed. *Matter of Chang*, Interim Decision 2550 (BIA 1977) distinguished.

Number 2679-Matter of Chumpitazi. In Deportation Proceedings, A19 654 637. Decided by BIA, Nov. 20, 1978
(1) An alien, found deportable as a nonimmigrant visitor who remained in the United States beyond the period of his authorized stay, is precluded from relief under Article 32 of the United Nations Convention Relating to the Status of Refugees, which is limited to aliens lawfully in the United States.
(2) The provisions of Article 33 of the United Nations Convention Relating to the Status of Refugees have not changed the rights and remedies of an alien in deportation proceedings under section 243(h) of the Immigration and Nationality Act, 8 U.S.C. 1253(h). *Matter of Dunar*, 14 I&N Dec. 310 (BIA 1973), reaffirmed.
(3) An immigration judge does not have the authority to consider re-

quests for asylum in deportation proceedings since by regulation jurisdiction over such applications has been placed in the District Director, *Matter of Exantus and Pierre*, Interim Decision 2622 (BIA 1977), modified.
(4) A tax levied on all citizens of Peru who travel outside of that country is not persecution on account of race, religion, nationality, membership in a particular social group, or political belief, as contemplated by section 243(h) of the Immigration and Nationality Act.
(5) A claim to persecution under section 243(h) must be supported by evidence which is material, rather than by generalized undocumented assertions by the applicant. *Coriolan* v. *INS*, 559 F.2d 993 (5 Cir. 1977), distinguished.
(6) A delay by the Service of five years in acting upon an asylum application was not "affirmative misconduct" amounting to estoppel since the respondent was not directly deprived of any entitlement he had under the immigration laws, and he was given the opportunity to fully elucidate the bases for his fear of persecution in Peru at his deportation hearing.
(7) The loss of a job and the concomitant financial loss incurred is not "extreme hardship" within the meaning of section 244 of the Act, 8 U.S.C. 1254, despite an 11-year stay in the United States.

Number 2682-Matter of Wong. In Visa Petition Proceedings, A-21323067, A-21323068. Decided by BIA, Dec. 6, 1978.
(1) Under the provisions of Article 15 of the Marriage Law of the People's Republic of China, all children born in China are legitimate from birth. *See Chin Lau* v. *Kiley*, 563 F.2d 542 (2 Cir. 1977). *Matter of Lo*, 14 I&N 379 (BIA 1973), overruled.
(2) Notwithstanding the legislative legitimation of all children born in the People's Republic of China, a parent-child relationship must be proved for visa petition purposes by suitable evidence, including a birth certificate where available.
(3) Birth records are available for persons born in the People's Republic of China and should be presented in the case of a visa petition submitted by a father on behalf of his child born out of wedlock, in the absence of proof of unsuccessful efforts to obtain documents.

Number 2683-Matter of Maloney. In Visa Petition Proceedings, A-22560105. Decided by BIA, Dec. 21, 1978.
(1) Under the Constitution of Panama of March 1, 1946, and its implementing Law of September 30, 1946, all acknowledged children are to be treated equally and considered legitimate, regardless of whether or not the natural parents ever marry.
(2) The right of legitimation extends to those born before March 2, 1946. To preserve this right, in cases where paternity has not previously been acknowledged in the birth records, it is only necessary for the father to rectify the birth registration in the Civil Registry.
(3) Where petitioner acknowledged his paternity of illegitimate child before officials of the Civil Registry in Panama in 1937, 13 days after the birth of the beneficiary, legitimation occurred on that date under the law of Panama.

Number 2684-Matter of Garcia. In Deportation Proceedings A-20066063. Decided by BIA, Dec. 27, 1978.
(1) Rule that reopening of proceedings will be denied absent a prima facie showing that the statutory requirements for relief have been met must be reexamined as to adjustment of status in view of the amendment of 8 C.F.R. 245.2(a)(2) permitting an adjustment application, filed with a visa petition, to be retained if later approval of the petition would make a visa available at time of filing.
(2) 8 C.F.R. 245.2(a)(2), permitting simultaneous filing of an application for adjustment of status and a visa petition, applies both before and after the issuance of an Order to Show Cause.
(3) Service policy permits a prima facie qualified beneficiary of a visa petition to remain in the United States pending final adjudication of the petition and an adjustment application.
(4) Unless clear ineligibility is apparent in the record, the Board shall generally grant motions to reopen in cases involving an application for adjustment of status filed simultaneously with a visa petition pursuant to 8 C.F.R. 245.2(a)(2), notwithstanding the fact that the petition has not yet been adjudicated.
(5) An immigration judge may, in his discretion, grant a motion to reopen or a request for a continuance of a deportation hearing pending final adjudication of a visa petition filed simultaneously with an adjustment application under 8 C.F.R. 245.2(a)(2) where a prima facie approvable visa petition and adjustment application have been submitted to him. *Matter of Kotte*, Interim Decision 2634 (BIA 1978) clarified.

Number 2685-Matter of Esfandiary. In Deportation Proceedings A-18815373. Decided by BIA, Jan. 17, 1979.
(1) The first step in determining whether a crime involves moral turpitude is to determine from the record of conviction what law, or portion of law, was violated.
(2) When a statute encompasses both violations which do and those that do not necessarily involve moral turpitude, the record of conviction (*i.e.*, the charge, plea, verdict and sentence) must be examined for a determination of whether the crime committed involves moral turpitude.
(3) Where respondent's conviction of malicious trespass under Florida law required a finding of an intent to commit petit larceny, a crime involving moral turpitude, the conviction is for a crime involving moral turpitude within the meaning of section 241(a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1251 (a)(4).

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The Indochinese Refugee Program in Southeast Asia
Settlement Patterns of Indochinese Refugees
The "Refugee Act of 1980"

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INS Reporter

Spring 1980

The United States Department of Justice
Benjamin R. Civiletti, *Attorney General*

Immigration and Naturalization Service
David Crosland, *Acting Commissioner*

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Cover: Refugees arriving in Hong Kong aboard vessels which were overflowing beyond capacity and many of which were unseaworthy. Those who made it, had faced many adverse conditions on their journey including unpredictable weather, insufficient food and water, and even piracy. The mid-1979 exodus found many refugee-filled boats lined up in the Hong Kong harbor.

The opinions expressed are those of the authors and do not necessarily reflect the views or policies of the Immigration and Naturalization Service.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of this Agency. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 30, 1981.

Verne Jervis
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Editor

A familiar scene is that of boats, many of them unseaworthy, and overflowing with refugees, arriving in Hong Kong.

The Indochinese Refugee Program in Southeast Asia

By Joseph Sureck
District Director
Hong Kong

While the world debates and agonizes about its responsibilities toward Indochinese refugees, a team of dedicated workers, inspired by a humanitarian undertaking, work together to feed, house, clothe, and ultimately to process the refugees who have crossed hundreds of miles of sea, or trekked through jungles and mine fields to countries of first asylum, seeking resettlement in a free society.

Those who came by boat may have paid hundreds of dollars each to an arranger, always uncertain whether they would successfully achieve the rendezvous with the escape boat; many of questionable seaworthiness. The boats, once at sea, ofttimes floundered because of mechanical problems or went astray due to navigational errors. Countless dozens of boats sank with loss of hundreds of lives.

Many boat refugees who reached a country of first asylum reported being intercepted by pirates who robbed them of their possessions and even raped their women. Some boats, after weeks at sea, were not permitted to land, were towed out to sea, again to face the uncertainties of the seaworthiness of their vessel, the elements, food and water, and whether upon reaching another country, attempts to land would be thwarted.

Those refugees who crossed into Thailand by land from Laos and Cambodia were the fortunate ones who had not been overcome by starvation or sickness; also avoiding the mortar shells and bullets. This writer, at the refugee camp in Nongkhai, Thailand, observed a woman being treated by paramedics. While floating across the Mekong River from Laos, hanging to a log, holding her baby, and assisting her other children, she was fired upon by militiamen in Laos, a bullet creasing her skull. She survived but she lost all her children.

Persons processing refugees at Thai camps along the border from time to time were within earshot of the exchange of mortar fire across the border.

Mid-1979 Exodus from Vietnam

Except for the exodus of refugees from Vietnam in 1975, following the conclusion of military activities there, resulting in upwards of 150,000 persons escaping Vietnam by air or sea, the flow of refugees had been manageable. However, it reached a crescendo in the middle of 1979 when the refugee camps in Malaysia, Thailand, Indonesia and Hong Kong overflowed with approximately a half million people. Most of the persons leaving Vietnam in 1978-79 were of Chinese ethnic origin.

These persons reported generally that they were informed by Government officials that they had an election; namely, to leave Vietnam or be moved to a New Economic Zone to develop new land at considerable hardship and privation. Most chose to leave, for which a price as high as $3,000 each had to be paid. According to the Sino-Vietnamese refugees, such movements had the imprimatur and even direct assistance of the Vietnamese Government.

Typical of the overcrowded conditions on many of the boats arriving in Hong Kong carrying refugees.

Internationalization

The United States, in pursuance of its traditional role of providing a sanctuary for refugees escaping persecution by reason of race, religion, or political opinion, has accepted Indochinese refugees for resettlement since 1975. Its intake was increased in 1979 to 14,000 a month to await action by Congress on a new refugee bill (finally passed March 17, 1980, as the Refugee Act of 1980, P.L. 96-212).

At the same time, the United States Government, by direct appeal of the President and through the Office of the United States Coordinator for Refugee Affairs, was urging other Governments to accept more refugees. This internationalization effort has been successful with Canada, Australia, France, and other members of the world community in resettling thousands of the refugees.

Refugee Processing Centers

In 1979, with the refugee camps in Malaysia, Indonesia, Thailand ,and Hong Kong overflowing, creating housing, medical, sanitation hazards —as well as serious adverse local domestic and political reaction—the United States proposed that refugees who may have to wait an inordinate period of time for a resettlement opportunity, be moved to Refugee Processing Centers (RPC). This would relieve the pressures upon countries of first asylum, and also provide improved housing, health and sanitation facilities. Educational programs are also being planned to provide orientation and language training to facilitate easier absorption of the refugee into the American way of life upon arrival in the United States.

The Government of the Philippines volunteered a site on Bataan and the first phase of the RPC has been completed accommodating a population of 10,000 refugees, all accepted for resettlement in the United States. It is anticipated that the RPC will be enlarged to accept at least another 10,000 refugees.

Processing by JVAR

After arrival in a country of first asylum, the refugees will be interviewed and registered by the UNHCR

The refugees are temporarily housed in these facilities until removed to refugee camps elsewhere.

The Refugee Processing Center at Bataan, Philippines, houses some 10,000 refugees destined to resettle in the U.S.

(United Nations High Commissioner for Refugees). If initially determined to meet the definition of refugee, the UNHCR will endeavor to refer the refugee to resettlement countries where the refugee has relatives or whose background fits the resettlement criteria of a particular country.

The responsibility of the various agencies directly associated with the United States program for processing, accepting and transporting refugees, is coordinated by a Department of State Refugee Officer. The interview of refugees for the United States program is conducted initially by the office of JVAR (Joint Voluntary Agency Representative) under contract with the United States Government. A JVAR worker completes family and personal history forms on each family. The JVAR worker also completes a biodata (biographical sheet) form and will submit a file of the refugee to the United States Immigration Service with a suggested category assignment.

In order to determine priority of movement of a refugee within the monthly limitation of 14,000 (until a new allocation under the Refugee Act of 1980 is announced) the refugees accepted by the United States are moved to this country in accordance with the following category (priority) formula:

- Close relationships, as defined, with a relative in the United States;
- Unaccompanied minors, 17 years of age or under;
- Former United States Government employees for one year after January 1, 1962;
- Other persons closely associated with the United States, as defined;
- Various sub-categories not qualified as categories I, II, III

Included in the processing by JVAR is the taking of photographs and fingerprints of refugees 14 years of age and older, initiating requests for verification of family relationship, security checks, etcetera. This organization sends the biodata sheet to ACVA (American Council of Voluntary Agencies), which refers the sheet to a member voluntary resettlement agency to locate a sponsor. This sponsor, when located, agrees after arrival of the refugee in the United States to provide housing, sustenance, and assistance during the period of adjustment.

A refugee family relaxes in one of the barracks at the Bataan Processing Center.

Motivation for Leaving Vietnam

With the end of hostilities in South Vietnam, free enterprise was abol-

ished, with the new government nationalizing most businesses. The impact was felt heavily by the Sino-Vietnamese community whose businesses were confiscated. Many no longer had a means of livelihood and were threatened with being sent to the New Economic Zone.

The deprivation of businesses and its nationalization in Northern Vietnam, combining with a deterioration of relationship between Vietnam and the People's Republic of China, resulted in increased discrimination against Vietnamese Chinese. This caused in excess of 200,000 Sino-Vietnamese to cross the border into the People's Republic of China in 1978, where they have been accepted for resettlement.

In the meantime, exodus by boat continued from Southern Vietnam, principally ethnic Chinese, fleeing to the south to Malaysia, Indonesia and some to Thailand. Those leaving by boat from Northern Vietnam during this period, also primarily ethnic Chinese, generally sailed northward to Hong Kong. This outflow became such a massive exodus by mid-1979 that an emergency meeting of United Nations representatives was held at Geneva in July 1979, to seek to cope with the problem.

At this meeting, the Government of Vietnam agreed to actively attempt to stem the departure of persons seeking to leave Vietnam by boat. This interdiction appears to have been effective inasmuch as refugees from Vietnam have decreased materially. However, it is interesting to note that since that time more ethnic Vietnamese have succeeded in escaping from Vietnam, and many of these from Northern Vietnam.

Orderly Departure Program

In addition, the Vietnamese Government agreed to discuss with the United States procedures to permit the orderly departure of persons from Vietnam. Discussions have taken place to seek to effect such an orderly departure; however, disagreement as to the formula for selecting persons to depart, and other procedural differences have achieved a stalemate. Thus, the orderly departure program has yet to reach fruition. Consequently, although at a reduced rate, boat refugees are still leaving Vietnam for countries of first asylum in Southeast Asia.

INS Immigration Officer Thomas Prokapowicz interviews a group of refugees at a refugee camp in Thailand.

Interview by INS Officers

Until the passage of the Refugee Act of 1980, the mission of the United States Immigration Officers assigned or detailed to the Indochinese Refugee Program has been to exercise the discretion of the Attorney General in paroling aliens for emergent or reasons deemed to be strictly in the public interest (Section 212(d)(5), Immigration and Nationality Act). In exercising the discretion, the officer weighed any statutory grounds of inadmissibility, adverse information procured at interviews or from other sources, against close ties to the United States or other emergent or public interest factors.

The interview of the refugee, under oath, generally is conducted through an interpreter. The normal procedure is for the entire family group to appear together before the Immigration Officer. The officer has the benefit of the background information assembled by JVAR. He will ask questions to verify factors material to the refugee's eligibility, confirm relationship or close association with the United States, if applicable, inquiring into factors that could impinge on admissibility and/or a favorable exercise of discretion.

The Immigration Officer is the ultimate fact-finder, acting for the Attorney General to determine if parole is to be granted, and the category to be assigned. If the Refugee Officer questions the discretionary determination of the Immigration Officer as to parole or category assignment, he may present the matter to the District Director, Hong Kong, for review and reconsideration.

Because the exodus of refugees has far exceeded the capabilities of the United States to promptly accept them, to avoid an inordinate waiting period in camps and to seek to assure their acceptance by the United States, it has not been uncommon for refugees to resort to deception to seek to establish false family relationships to upgrade their category. When such duplicity is discovered, generally, the refugee is denied parole by the Immigration Officer as a matter of discretion.

Whether denial of parole is justified for polygamous families, is a troublesome issue that the Immgration Officer encounters with some frequency

In Malaysia, U.S. Voluntary Agency representatives interview some Vietnamese boat refugees for resettlement in the U.S.

amongst the Indochinese refugees. It becomes a sensitive and vexing issue that must be sorted out on a case by case consideration.

Movement to U.S. by ICEM

After acceptance of the refugee by the Immigration Officer for parole into the United States, and upon receipt of assurance from a sponsor, if ready to move under the category system, the refugee is referred to ICEM (Intergovernmental Committee for European Migration) for medical examination and movement to the United States. The refugee will hand carry his file with A-Number to the U.S. port of entry.

Dedication of INS Officers

A narrative about the refugee program in Southeast Asia would not be complete without special words of praise for the men and women of this Service who have volunteered for a 60-day detail away from family and friends and ofttimes to work and live under the most primitive conditions. For example, many of these officers were detailed to process refugees on isolated islands in makeshift huts or in the open. The sleeping accommodations at one island outpost was the table upon which the officers worked and ate their meals.

United States Refugee Policy

The foregoing is a discussion related to the refugee-parole procedures prior to the effective date of the Refugee Act of 1980 (May 17, 1980). This Act reflects the historic policy of the United States to receive its fair share of world refugees of special humanitarian concern to the United States and its policy to internationalize, that is, to encourage all nations to provide assistance and resettlement opportunities to refugees.

The objective of the Act is to merge all United States refugee programs, including conditional entry (Section 203(a)(7), Immigration and Nationality Act), into a single permanent procedure for the processing, selection and admission of refugees; and after admission, an effective program of assistance to the refugee to assure his adjustment and assimilation into the American community.

The new Act was passed at a time when refugees were still arriving by boat or across land borders to countries of first asylum in Southeast Asia; also exiting countries in Eastern Europe, the Middle East, and with turmoil and unrest surfacing in other parts of the world, generating new potentials for groups fitting the definition of "refugee" in the new Act.

The Immigration and Naturalization Service can expect to be processing refugees seeking a haven in the United States for some time to come.

A World Problem

The resettlement of refugees must

A typical refugee camp along the Thailand coast where Vietnamese boat people are housed awaiting resettlement.

be looked upon as a problem concerning all nations of the world. However, the relocation of the refugees is a response only to the symptoms, not the cause of their tragic flight from their homeland. Hopefully, the global community, working through diplomatic channels, international organizations, creating effective world opinion, can erase or neutralize racial, religious or political persecution, and refugees will be no more. ■

Settlement Patterns of Indochinese Refugees in the United States*

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Introduction

In April-May 1975, approximately 130,000 refugees were evacuated from Vietnam, as American forces withdrew from the country. By the end of December 1975, all of these evacuees had been resettled in the United States. While other refugee movements into the U.S. have involved more people over periods of years (the Cubans especially), this was the largest number of refugees ever to be resettled in this country in such a short period of time.

The prevailing sentiment in Congress in 1975 regarding their resettlement was that they should be dispersed widely throughout the country rather than encouraged to settle in large groups. This was to be accomplished through the sponsorship of refugee families by voluntary agencies, and it was hoped that minimal Federal program assistance would be necessary. Apparently it was feared that the unpopularity of the war would carry over into an unfriendly reception for the refugees, especially if they were perceived as a drain on tax monies or if they had a perceptible impact on some local communities. The assumption of government officials and of sponsoring agencies was that refugees would tend to remain in the community of first placement and sponsorship.

Whatever we may think of the merits of this policy of geographic dispersal, later developments have proved it rather ineffective. While Indochinese refugees can be found living in every state of the U.S. as well as various territories, nearly one-third of them were living in California in early 1979, and noticeable enclaves existed in other parts of the country. In this paper I will describe the current resettlement pattern, trace its development since 1975, and touch on differences in dispersal among the three nationality groups that constitute the Indochinese refugee population. Finally, I will compare the settlement patterns of the later entering cohorts with that of the 1975 cohort.

Source of Data

The source of data for this study is the U.S. Immigration and Naturalization Service (INS) Alien Address Report for the years in question. By law, in January of each year all noncitizens present in the U.S. are required to register with the INS by mailing a postcard form. The form lists name, address, an identifying number, date of birth, date of entry into the U.S., type of visa held, and several other pieces of information. It was revised in 1979 to gather more useful employment data; however, these data are not analyzed here. For this analysis, persons are defined as Indochinese if they reported their nationality as Vietnamese, Cambodian, or Laotian.

This method of data collection, of course, has several inherent flaws. Coverage is known to be less than complete, since the system relies primarily on voluntary compliance. While failure to register is a violation of law, it receives relatively low priority in INS enforcement efforts. Fortunately, in the case of the Indochinese, compliance has been relatively good. I estimate the coverage of the Indochinese population at 85 to 90 percent for 1976 to 1979. This estimate is based on a comparison of the numbers of Indochinese known to have entered in each calendar year, less those who became citizens, with those who registered the following January. (No deductions were made for deaths or emigrations, which are not tallied by INS, so this method tends to underestimate compliance.)

Additionally, this data system is based on self-reporting on a form printed in the English language. This form may pose difficulties for persons with a very limited command of English and even for persons who do not understand some terminology based in immigration law that appears on the form. In particular, in one question people are asked to indicate their "immigration status" (type of visa held) by checking one of a series of boxes. For our purposes, the relevant categories are "refugee" and "permanent resident," although a few Indochinese have held other types of visas.

Most Indochinese entered the U.S. initially as "refugee-parolees" under the immigration law. In October 1977, legislation was passed providing for adjustment of their immigration status to that of permanent resident alien after two years' physical presence in the U.S., making all those who entered in 1975 immediately eligible. The categories checked on the Alien Address Report forms should reflect these changes in legal status.

Almost all Indochinese in the U.S. were legally in refugee status in 1976, 1977, and January 1978, but by January 1979, almost all of the

*This discussion was presented by the author at the Annual Meeting of the Southwestern Social Science Association in Houston, Texas, April 2–5, 1980.

first wave were permanent resident aliens, leaving the more recent entrants in refugee status. However, because of errors in self-reporting and other problems, the reporting of immigration status by the Indochinese was highly unreliable in 1976, 1977, and 1978. Also, for this analysis we wish to consider the 1975 cohort as refugees, even though they will be eligible for citizenship in 1980.

Therefore, I have used the total registration of Indochinese in the U.S. under the Alien Address Report Program to approximate the population of Indochinese refugees in the U.S., without excluding anyone based on self-reporting of immigration status. This data is not perfect, but it is the best nationwide data base in existence on the refugee population.

United States Department of Justice
Immigration and Naturalization Service
Washington, DC

TABLE 1.
STATES WITH LARGEST INDOCHINESE POPULATION AS OF JANUARY 1979

State	Indochinese population	Percent of Indochinese
California	49,084	31.2
Texas	15,942	10.1
Pennsylvania	6,596	4.2
Louisiana	6,496	4.1
Virginia	5,950	3.8
Washington	5,714	3.6
Illinois	4,710	3.0
Florida	4,116	2.6
Oregon	4,042	2.6
Minnesota	3,624	2.3
All other states	51,235	32.5
U.S. Total	157,509	100.0

Source: INS Alien Address Report

Areas of Concentration

As previously indicated, by 1979 a tendency for the Indochinese to gather in certain parts of the country was apparent. The ten states with the largest Indochinese populations as of January 1979 are listed in Table 1. California had nearly one-third of all the refugees, Texas had 10 percent, and no other state had more than 5 percent, although all of the top ten states had enough refugees for the impact to be noticeable if they were located in a few communities. This tended to be the case.

Since California has such a large number of refugees, the local area impact there is much greater than in other parts of the country. Very large numbers are living in Los Angeles and in communities comprising the Los Angeles metropolitan area, including Santa Ana, Alhambra, Inglewood, and Long Beach. To the south, a large settlement can be found in San Diego, and to the north in the San Francisco area, including San Jose and Oakland.

Outside of California, the largest community of resettlement is Houston. Next to Houston is the District of Columbia with its suburbs, where most of the refugees are actually living. Following these in approximate order are New Orleans, the Seattle-Tacoma area, Portland, Oregon, the Dallas-Fort Worth area, the Chicago area, Minneapolis-St. Paul, Denver, and the Philadelphia area. All of these communities had at least 3,000 Indochinese as of January 1979, with Houston having at least 8,000.

United States Department of Justice
Immigration and Naturalization Service
Washington, DC

TABLE 2.
TOTAL OF THREE INDOCHINESE NATIONALITIES IN SELECTED STATES, 1975–1979

State	YEARS					Percent change, 1976–'79
	1975	1976	1977	1978	1979	
California	2,413	26,991	34,222	38,613	49,084	+81.9
Texas	902	9,923	12,001	12,758	15,942	+60.7
Pennsylvania	416	7,148	6,828	6,260	6,596	- 7.7
Louisiana	146	3,543	5,918	6,263	6,496	+83.3
Virginia	624	5,204	6,056	5,951	5,950	+14.3
Washington	434	4,561	5,094	5,030	5,714	+25.3
Illinois	483	3,874	4,114	3,944	4,710	+21.6
Florida	554	4,882	4,875	4,536	4,116	-15.7
Oregon	195	2,150	2,821	3,189	4,042	+88.0
Minnesota	263	3,631	3,679	3,224	3,624	- 0.2
New York	722	4,156	4,029	3,617	3,594	-13.5
Colorado	341	2,192	2,373	2,654	3,354	+53.0
Oklahoma	178	3,286	3,467	2,937	2,836	-13.7
Michigan	308	2,693	2,662	2,384	2,648	- 1.7
Iowa	136	2,434	2,815	2,468	2,576	+ 5.8
Hawaii	529	2,099	2,395	2,093	2,349	+11.9
Ohio	350	3,017	3,018	2,483	2,321	-23.1
Maryland	409	2,756	2,910	2,492	2,285	-17.1
Wisconsin	196	1,914	2,284	2,110	2,165	+13.1
Kansas	180	1,755	1,788	1,782	2,098	+19.5
Missouri	250	2,842	2,762	2,524	1,917	-32.5
Indiana	236	1,955	1,775	1,573	1,497	-23.4
All other states	3,209	22,803	22,888	20,242	21,595	- 5.3
U.S. Total	13,474	125,809	140,774	139,127	157,509	+25.2

Source: INS Alien Address Report

Trends over Time

It is particularly instructive to look at the residence patterns since January 1975, before the evacuation, to see how the current pattern arose. Table 2 shows the 22 states with the largest Indochinese populations as of January 1979, and the numbers who registered in those states in each January since 1975, as well as the U.S. totals. It is apparent that the 1975 influx, more than eight times the January 1975 number, was so great as to overwhelm the small Indochinese communities already present in the U.S. (It is also evident that 1978 was the year of the greatest underreporting, since the total registered was about 1600 less than in 1977.) Otherwise, the totals from year to year are a good reflection of the numbers known to have entered in each year.

Looking at the state totals, we can

see that the tendency for the Indochinese to locate in California is not new. That state had more Indochinese than any other in January 1975, just as today, with about 18 percent of the total. Texas ranked second then as now, with 7 percent at that time. In contrast, New York State was third in 1975 but has not become a major focus of refugee resettlement, ranking eleventh among the states in 1979. Thus, some of the current settlement pattern predates the 1975 refugee wave, with new entrants having gravitated toward established communities as one would expect; but some areas where Indochinese were already living did not grow proportionately.

The program under which refugees were processed through four camps set up on military bases located in Arkansas, California, Florida, and Pennsylvania, was intended to promote their dispersal across the country. That it did have a lasting effect can be seen in the positions of Pennsylvania and Florida as major centers of Indochinese population: third and eighth in rank. However, the Indochinese populations dropped slightly from 1976, just after the resettlement camps closed, to 1979, indicating that they are two sources of the secondary migration often mentioned in discussions of the resettlement of these refugees. Also, Arkansas has never had a large refugee population despite its role as the location of a resettlement camp.

As Table 2 shows, secondary migration has been an important factor in developing the current pattern of residence. From January 1976 (when the initial resettlement program had been completed) to January 1979, the total number of Indochinese registering increased by 25 percent, reflecting later refugee entries. However, California, Texas, Louisiana, Oregon, and Colorado saw increases between 53 and 88 percent, indicating that they have all been targets of significant secondary migration or have received a disproportionate share of the late entries. Other states with sizeable refugee populations, such as Florida, New York, Oklahoma, Ohio, Maryland, Missouri, and Indiana, registered declines of 13 to 31 percent in their Indochinese populations during this three-year interval.

TABLE 3.
PROPORTION OF INDOCHINESE IN SELECTED STATES, 1976–1979

State	YEARS			
	1976	1977	1978	1979
California	22.5	24.3	27.8	31.2
Texas	8.3	8.5	9.2	10.1
Pennsylvania	6.0	4.9	4.5	4.2
Louisiana	2.9	4.2	4.5	4.1
Virginia	4.3	4.3	4.3	3.8
Washington	3.8	3.6	3.6	3.6
Illinois	3.2	2.9	2.8	3.0
Florida	4.1	3.5	3.3	2.6
Oregon	1.8	2.0	2.3	2.6
Minnesota	3.0	2.6	2.3	2.3
New York	3.5	2.9	2.6	2.3
Colorado	1.8	1.7	1.9	2.1
Oklahoma	2.7	2.5	2.1	1.8
Michigan	2.2	1.9	1.7	1.7
Iowa	2.0	2.0	1.8	1.6
Hawaii	1.7	1.7	1.5	1.5
Ohio	2.5	2.1	1.8	1.5
Maryland	2.3	2.1	1.8	1.5
Wisconsin	1.6	1.6	1.5	1.4
Kansas	1.5	1.3	1.3	1.3
Missouri	2.4	2.0	1.8	1.2
Indiana	1.6	1.3	1.1	1.0
All other states	18.1	16.3	14.5	13.7
U.S. Total	125,809	140,774	139,127	157,509

Source: INS Alien Address Report

Table 3 presents the 1976–1979 changes in a different way, showing what proportion of the Indochinese resided in each of the same 22 states in those years. This table highlights the ingathering to California, which went from having 22.5 to 31.2 percent of the U.S. Indochinese population in three years. No other state showed a comparable increase, but of the states declining in Indochinese, none showed an abrupt decline. The move to California does not seem to have come disproportionately from any one state. Additionally, there are exceptions to the usual generalization about migration from the Snow Belt to the Sun Belt: Florida has declined while Colorado has gained. The reasons for some of these changes appear when we look at the residence patterns of the three nationalities, comprising the Indochinese, separately.

Differences Among the Three Nationalities

The three nationality groups entered the United States in different waves; in fact, the legislation pertaining to Indochinese refugees was not extended to include those from Laos until the summer of 1976. As Table 4 shows, most of the Vietnamese arrived in 1975, with a second wave of "boat people" beginning in late 1978. Also, most of the Cambodians present in early 1979 had arrived in 1975, with a small but steady inflow in the subsequent years. The Lao arrived in two major waves during 1976 and 1978. Of course, large numbers of all three nationalities arrived in 1979, and more will be said about them in the final section.

Table 5 shows the states with major concentrations of each of the three groups as of January 1979. The percentage of each group living in the state is shown for the top ten states. This table indicates that California and Texas are key states for each nationality examined separately, as for the combined total.

United States Department of Justice
Immigration and Naturalization Service
Washington, D.C.

TABLE 4.
NUMBERS OF INDOCHINESE REPORTING IN JANUARY 1975–1979

Year	NATIONALITY		
	Vietnamese	Cambodian	Laotian
1975	12,867	272	335
1976	120,108	4,441	1,260
1977	125,352	5,603	9,819
1978	123,434	5,647	10,046
1979	133,879	6,450	17,180

Source: INS Alien Address Reports

However, there are some interesting differences among the groups. In particular, the settlement patterns of the Vietnamese and Cambodians are rather similar, while the Laotians show a different settlement tendency.

Since the Vietnamese are 85 percent of the Indochinese refugee population, their residence pattern dominates Tables 1-3. However, Table 5 shows that Louisiana and Florida are important states in the resettlement of the Vietnamese only, not for the other two groups. Similarly, the states of Virginia and Washington have significant concentrations of Vietnamese and Cambodians but relatively few Laotians.

The Laotians are much more likely to be found in Northern and Midwestern states than are the other two groups. Minnesota, Illinois, Iowa, and Wisconsin are all centers of settlement for the Laotians but not for the others. Also, they are more dispersed around the country than the other two groups. This seems to be due in part to their shorter time of residence in the U.S.

All the evidence indicates that a great deal of secondary migration is taking place among the refugees, with a tendency to congregate in certain areas, not necessarily the same ones for each nationality. The process of ingathering seems to have progressed farther among the Vietnamese and Cambodians, who simply have been here longer.

A comparison of Table 5 with Table 6 shows the net effect of migration over the two-year interval from 1977

United States Department of Justice
Immigration and Naturalization Service
Washington, DC

TABLE 5.
PERCENT OF EACH NATIONALITY IN SELECTED STATES OF CONCENTRATION, 1979[a]

State	Vietnamese		Cambodian		Laotian	
	%	Rank	%	Rank	%	Rank
California	32.6	1	31.0	1	20.3	1
Texas	10.6	2	8.5	3	7.2	2
Louisiana	4.7	3	[c]	17	[d]	37
Pennsylvania	4.2	4	7.9	6	4.0	8
Virginia	4.0	5	4.8	5	[d]	15
Washington	3.6	6	7.7	4	[d]	14
Florida	2.9	7	[c]	20	[d]	31
Illinois	2.5	8	2.7	8	6.6	3
New York	2.2	9	2.6	9	[d]	12
Oregon	2.1	10	6.9	2	3.6	9
Minnesota	[b]	11	[c]	12	4.5	5
Colorado	[b]	13	3.5	7	4.4	6
Maryland	[b]	15	2.5	10	[d]	36
Hawaii	[b]	19	[c]	36	3.5	10
Iowa	[b]	20	[c]	28	5.0	4
Wisconsin	[b]	22	[c]	22	4.1	7
Total number in U.S.	133,879		6,450		17,180	

[a] Percentages are shown only for the ten states with the greatest number of each nationality.
[b] Less than 2.1%.
[c] Less than 2.0%.
[d] Less than 2.8%.

Source: INS Alien Address Report

United States Department of Justice
Immigration and Naturalization Service
Washington, D.C.

TABLE 6.
PERCENT OF EACH NATIONALITY IN SELECTED STATES OF CONCENTRATION, 1977[a]

State	Vietnamese		Cambodian		Laotian	
	%	Rank	%	Rank	%	Rank
California	24.9	1	28.8	1	13.8	1
Texas	8.7	2	7.2	3	7.2	2
Pennsylvania	5.0	3	4.1	7	2.8	10
Louisiana	4.6	4	[c]	13	[d]	32
Virginia	4.4	5	5.0	5	3.1	9
Florida	3.7	6	[c]	23	[d]	21
Washington	3.6	7	6.9	4	[d]	17
New York	2.8	8	3.4	8	3.7	7
Illinois	2.7	9	3.2	9	5.1	6
Oklahoma	2.7	10	[c]	40	[d]	29
Minnesota	[b]	11	2.2	10	[d]	14
Ohio	[b]	13	[c]	20	3.5	8
Maryland	[b]	14	5.0	5	[d]	38
Oregon	[b]	16	8.2	2	[d]	16
Iowa	[b]	17	[c]	14	6.5	3
Hawaii	[b]	19	[c]	38	5.5	4
Wisconsin	[b]	21	[c]	16	5.2	5
Total number in U.S.	125,352		5,603		9,819	

[a] Percentages are shown only for the ten states with the greatest number of each nationality.
[b] Less than 2.7%.
[c] Less than 1.5%.
[d] Less than 2.3%.

Source: INS Alien Address Report

to 1979, for each group separately. For the Vietnamese, the major changes were the move toward California and to a lesser extent Texas, strengthening the position of those two states as major centers of Vietnamese population. The same can be said for the Cambodians, who also left Maryland in noticeable numbers. During the same period, the Laotians moved into California, and also into Colorado, Minnesota, Oregon, Illinois, and Pennsylvania. They tended to leave Hawaii, Iowa, Wisconsin, Virginia, and New York. It is difficult to draw any geographic generalizations from these movements, and the process is probably incomplete.

The 1979 Entrants

During the 1979 calendar year, more than 95,000 new Indochinese refugees entered, according to INS figures. Of these, about 71 percent were Vietnamese, 23 percent Laotians, and 6 percent Cambodians. This is a higher proportion of Laotians and a smaller proportion of Vietnamese than characterized the entries of earlier years.

Tabulation of the January 1980 registration is incomplete, so it has not been possible to incorporate it into the findings presented above. However, we do have some preliminary indications based upon data collected at the time of entry as to the destinations of the refugees who entered in 1979. These data show about four of every ten new refugees going to California, and about one of every ten going to Texas. Therefore, the two major states of concentration in early 1979 were reinforced by the entries of the subsequent year.

Other states with high refugee populations in early 1979 that received a large 1979 influx were Pennsylvania, Illinois, Washington, New York, Minnesota, Oregon, Colorado, and Louisiana. A few places that did not previously have relatively large refugee enclaves were named as destinations: the District of Columbia (these refugees may settle in Maryland or Virginia), Michigan, Hawaii, Iowa, and Kansas.

Summary

The INS registration data show a distinct tendency for the Indochinese refugees to cluster together in certain locations over a period of several years. This indicates the impossibility, in a free society, of specifying where people will live, even those people who are newly admitted. There appears to be a tendency for new arrivals to seek others like themselves, which was also the case in the great waves of 19th and early 20th century immigration. In the case of these refugees as with other recent immigrants, this tendency is reinforced by the preference system for screening applicants for entry, which confers advantages to relatives of those already here.

Other motives besides family reunification frequently hypothesized for the secondary migration of the Indochinese are for employment (toward areas with expanding economies), for better social services, and for a warm climate. The data source used here can provide only indirect evidence on people's motives for moving. Fortunately, some research is in progress that will yield more direct information.

I am preparing to analyze a sample of INS administrative records of Indochinese refugees which contain individual migration histories as well as demographic and economic characteristics. Researchers supported by another agency are preparing a survey that will inquire directly about motives for moving, while collecting migration histories. Hopefully, much more work of this kind will be undertaken in the future. There is a great need for better information to support social planning and policy development pertaining to refugees in the U.S. ■

The "Refugee Act of 1980"

The "Refugee Act of 1980", P.L. 96-212 (94 Stat. 102), was signed into law by President Carter on March 17, 1980. This comprehensive measure is designed to meet the refugee problem which in recent years has grown to such proportions that current law could no longer adequately deal with the situation.

Enactment of this Administration-sponsored bill followed a Senate-House conference convened to reconcile the differences in the Senate and House Bills (S.643 and H.R. 2816). Most provisions of the new law became effective April 1, 1980.

The legislation seeks to provide a permanent and systematic procedure for the admission of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

Among other things, it provides a new definition of "refugee"; separates the admission of refugees from that of immigrants; authorizes the annual admission of up to 50,000 refugees; provides for increased admissions in certain situations; and sets forth procedures for consultation with Congress on numbers and allocations of refugees.

Definition of Refugee

A new subsection 101(a)(42) is added to the Immigration and Nationality Act, defining "refugee". The definition basically follows that of the "U.N. Convention and Protocol Relating to the Status of Refugees", and eliminates geographical and ideological considerations.

Previously, under Section 203(a)(7) of the Act, refugee was defined as a person who because of persecution or fear of persecution on account of race, religion, or political opinion fled

from any Communist or Communist-dominated country or area, or from any country within the general area of the Middle East and was unable or unwilling to return to such country on account of race, religion or political opinion.

The new definition states refugee means any person outside his country of nationality or if having no nationality, is outside his country of last habitual residence, who is unable and unwilling to return to that country based on persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. Note that the basis for persecution has been expanded to include nationality and membership in a particular social group.

Additionally, the new definition includes persons within their country, in such special circumstances as the President after appropriate consultation (with Senate and House Judiciary Committees) may specify, can be treated as refugees. It excludes persons who themselves engaged in persecution.

Annual and Emergency Admissions

A new section, Section 207 is added to the Act. Section 207(a) limits the "normal flow" of refugees who may be admitted to 50,000 in Fiscal Years 1980, 1981 or 1982, unless the President determines before the beginning of the fiscal year, and after consultation with Congress, that admission of refugees in excess of that number is justified by humanitarian concerns or is otherwise in the national interest.

A subsequent provision of the bill limits the FY 1980 quota to 25,000. Additionally, it provides that the President may make a determination not later than 45 days after enactment of this Act that admission of refugees in excess of the 25,000 is necessary for FY 1980.

After Fiscal Year 1982, the President is given authority to set the numerical limit, before the beginning of the fiscal year and after appropriate consultation. The President will also allocate the numbers among refugees of special humanitarian concern to the U.S., again after appropriate consultation. Although not defined, both the Senate and House referred to "special humanitarian concern" as including the plight of the refugees, the pattern of human rights violations in the country of origin, family ties, historical, cultural or religious ties, the likelihood of finding sanctuary elsewhere, and previous contact with the U.S. Government.[1]

Section 207(b) gives the President authority, after consultation, to admit refugees above the numerical limit for a period not to exceed 12 months in response to emergency refugee situations.

Section 207(c) gives the Attorney General authority to admit any refugee, subject to the numerical limitations established, who is not firmly resettled in any foreign country and is determined to be of special humanitarian concern to the U.S. The Attorney General also is given authority to waive the following exclusionary grounds in Section 212(a): labor certification (14); public charge (15); visas (20), (21); literacy (25); and foreign medical graduates (32).

Other grounds of inadmissibility can be waived for humanitarian reasons, with the exception of the following: the bar to admission of aliens whose presence in the U.S. would be prejudicial to our public interest under Sections 212(a)(27) and 212(a)(29), aliens who engaged in persecution as Nazis under Section 212(a)(33), and that portion of Section 212(a)(23) which applies to traffickers in narcotics. The Attorney General, however, must report to Congress the number of waivers granted and the reasons for granting the waivers.

Section 207(c) also provides for the admission of spouses and children of refugees, and allows the Attorney General to terminate the refugee status of any alien if it is determined that the alien was not in fact entitled to such status.

Section 207(d) requires the President to report to Congress before the beginning of each fiscal year regarding the foreseeable number of refugees and the anticipated allocation of refugee admissions for the coming fiscal year.

Section 207(e) specifically describes and defines the term "appropriate consultation" required between designated representatives of the President and members of the Senate and House Judiciary Committees, concerning refugee admissions.

Such consultation involves meeting with these Committees to review the refugee situation or emergency refugee situation, to project the extent of possible U.S. participation, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest, and to provide specific, detailed information of the particular refugee situation.

Asylum

The legislation makes a clear distinction between refugee and asylum. A new Section 208 is created, giving the Attorney General authority to establish a procedure for an alien physically present in the U.S. or at a land border or port of entry, regardless of status, to apply for asylum. Asylum may be granted if the Attorney General determines that such alien is a refugee within the meaning of Section 101(a)(42)(A). This will require a change in current INS regulations under 8 CFR 108. The procedure must be established no later than June 1, 1980.

This section also requires the Attorney General to formulate regulations for terminating asylum should a change in circumstances in the alien's country occur.

As in Section 207, provision is made for the admission of spouses and children of aliens granted asylum.

[1] House Report No. 96-608, 96th Cong., 1st Sess., Nov. 9, 1979, p. 13 and Senate Report No. 96-256, 96th Cong. 1st Sess., July 23, 1979, p. 6.

It also should be noted that under Section 201 of Title IV of this Act, the Attorney General is given authority to grant permission to engage in employment in the U.S. to an alien applicant for asylum who applied before November 1, 1979, and with respect to whom "a final, non-appealable and legally enforceable order of deportation or exclusion has not been entered".

Adjustment of Status

A new Section 209 provides for adjustment of status to lawful permanent residence of refugees who have been physically present in the U.S. for at least *one* year. Under previous law, the refugee had to have been physically present for at least *two* years. Adjustment to lawful permanent resident is recorded as of the date of arrival of the refugee into the U.S.

This section also provides for adjustment to permanent residence of any alien granted asylum who has been physically present in the U.S. for at least one year after the grant of asylum. In these cases, permanent residence will be recorded as of the date one year before the date of approval of the application for adjustment. The law further provides that no more than 5,000 of the refugee admissions authorized in any fiscal year may be made available for adjustment of status of aliens who have been granted asylum. For FY 1980, it limits this number to 2,500.

Changes in Quota and Visa Allocations

Section 201(a) of the Act is amended reducing the worldwide quota from 290,000 to 270,000 per year. However, for FY 1980, the overall quota is set at 280,000 since enactment of the law occurred six months into the fiscal year. For the same reason, refugee admissions for FY 1980 will be 25,000 and adjustment of status for those granted asylum is limited to 2,500.

Sections 202 and 203 of the Act are amended to eliminate all references to conditional entry; to raise the percentage of immigrant visas allocated to second preference from 20 to 26 percent, by transferring the six percent formerly allocated for conditional entrants; and to redesignate paragraphs (8) and (9) of Section 203(a) as (7) and (8), respectively. Also, subsections (f), (g), and (h) relating to adjustment of status for conditional entrants are deleted.

Withholding of Deportation

The new law also amends Section 243(h) of the Act, relating to withholding of deportation, to bring it in line with the U.N. Convention and Protocol. Previously, the Attorney General had discretionary authority to withhold deportation if "in his opinion the alien would be subject to persecution . . . . ." The new law provides that "The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion."

In addition, 243(h) provides four specific categories for which the withholding relief may not be granted: an alien involved in persecution; an alien convicted of a serious crime, constituting a danger to the community; an alien who has committed a serious nonpolitical crime outside the U.S. prior to arrival; and an alien who is a danger to the security of the U.S.

Parole

The parole authority under Section 212(d)(5) is amended by adding a paragraph which states the Attorney General may not parole an alien who is a refugee unless he determines there are compelling reasons in the public interest which require that the alien be paroled rather than admitted as a refugee under Section 207.

A 60-day delayed effective date on the parole limitation was adopted in order that existing refugee parole programs may continue until consultation on future refugee admission programs is held under the terms of this legislation.

Savings Clause

The bill provides a savings clause for aliens granted conditional entry or who established a date of registration for conditional entry before April 1, 1980. In addition, aliens who entered as conditional entrants or who have been paroled into the U.S. as refugees, prior to April 1, 1980, and are eligible to adjust to permanent residence status pursuant to Section 5 of P.L. 95-412, may do so after one year, the same time period set forth in the new Act. They are also eligible for the same waivers of inadmissibility as described in the new refugee law.

Refugee Coordinator and Assistance

Title III of the Refugee Act of 1980 establishes a statutory post of U.S. Coordinator for Refugee Affairs, with the rank of Ambassador at Large, who reports directly to the President, and is responsible for overall refugee policy.

Title III also adds a new Chapter 2 to Title IV of the Immigration and Nationality Act, establishing an Office of Refugee Resettlement within the Department of Health and Human Services, to administer refugee assistance programs outlined in the new law. ■

Changes in the Regulations

Under Title 3, Code of Federal Regulations:

Consult 45 FR 16161 and 16163, Mar. 13, 1980, Presidential Proclamation Nos. 4733 and 4734 of Mar. 11, 1980, proclaiming May 1, 1980

"Law Day, U.S.A." and "Loyalty Day, 1980", respectively.

Under Title 8, Code of Federal Regulations:

Consult 45 FR 16462, Mar. 14, 1980, Sec. 235.10(c).

45 FR 19214, Mar. 25, 1980, Sec. 212.1(a).

45 FR 19545, Mar. 26, 1980, Sec. 204.1; 212.6(a); 235.1(f)(iii), (iv); 235.1(g).

45 FR 20461, Mar. 28, 1980, Sec. 238.3 and 238.4

45 FR 23641, Apr. 8, 1980, Sec. 214.2(j)(1), (2), & (3); 248.3(b).

45 FR 24849, Apr. 10, 1980, Sec. 212.1(e).

45 FR 24859, Apr. 11, 1980, Sec. 214.2(h)(11).

45 FR 26015, Apr. 16, 1980, Sec. 214.1(c); 245.1(d); 248.2.

45 FR 25791, Apr. 16, 1980, Sec. 214.2(h)(2)(iv).

45 FR 26947, Apr. 22, 1980, Sec. 245.1(d).

45 FR 27916, Apr. 25, 1980, Sec. 242.5(a)(2); 244.1.

Administrative Decisions

(Due to space limitations it is possible to print only an index and identifying paragraph on each precedent decision. Copies of the decisions may be seen at any local office of the Immigration and Naturalization Service. Copies may also be purchased on a yearly subscription basis ($50. per year, $12. extra for foreign mailing) from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The Decisions will be printed later in bound volume form. Volumes of past Administrative Decisions are on sale at the Government Printing Office in Washington. **Note: Decisions missing from the numerical sequence have not at this printing been released for publication.)**

Number 2686-Matter of Mazard. In Visa Petition Proceedings A-20878992. Decided by BIA, Jan. 17, 1979.

(1) In Haiti, the Presidential Decree of 1966, referred to in *Matter of Aladin*, Interim Decision 2425 (BIA 1975) is determinative of adoptions in Haiti occurring after its publication and before April 4, 1974.

(2) Adoptions occurring in Haiti on or after April 4, 1974, are governed by the Presidential Decree of April 4, 1974.

(3) As adoption in Haiti is a judicial act, only certified copies of a court order or judgment approving an adoption will be considered proper evidence of an adoption in Haiti.

(4) Where beneficiary was allegedly adopted in Haiti at age 11 in 1973, the adoption was governed by the 1966 Presidential Decree authorizing adoptions only for the benefit of children less than 6 years of age, and visa petition by citizen father denied.

Number 2687-Matter of Sanchez. In Visa Petition Proceedings, A22 164 879. Decided by BIA, Jan. 30, 1979.

Although illegitimate at the time of his birth in Honduras in 1949, the "acknowledged" child of the petitioner-father can now qualify for preference status as his unmarried son in view of the elimination of all legal distinctions between legitimate and illegitimate children in Honduras in 1957. *Matter of Ramirez*, 13 I&N Dec. 666 (BIA 1971) modified.

Number 2688-Matter of Lucero. In Visa Petition Proceedings, A-21710727. Decided by BIA, Feb. 7, 1979.

(1) In a Dominican divorce action for cause, appearance and pronouncement occur simultaneously. *Matter of Gonzales*, Interim Decision 2575 (BIA 1975), overruled in part.

(2) In a Dominican divorce action for cause, the plaintiff must appear at an office of the Civil Registry within two months of the divorce in order to have the divorce pronounced. Once appearance and pronouncement are completed, the divorce is final under Dominican law. *Matter of Valerio*, Interim Decision 2489 (BIA 1976); *Matter of Tagle*, Interim Decision 2476 (BIA 1976), reaffirmed.

(3) In a Dominican divorce by mutual consent, neither personal appearance nor pronouncement within two months are necessary to finalize the divorce.

(4) Where the record was unclear whether the Dominician divorce terminating the petitioner's prior marriage was for cause, or by mutual consent, and it was unclear whether the formalities had been complied with, the record was remanded for further proceedings.

Number 2689-Matter of Kaneda. In Deportation Proceedings, A-22205731. Decided by BIA, Feb. 28, 1979.

(1) Virginia Code Section 18.2-251 is a counterpart to the Federal First Offender Statute, 21 U.S.C. 844(b)(1); and a marijuana charge dismissed pursuant to such a statute may not be used as a basis for deportability under section 241(a)(11) of the Immigration and Nationality Act, 8 U.S.C. 1251(a)(11).

(2) The test for whether a state statute constitutes a counterpart to the Federal First Offender Statute is whether it complies with the Congressional intent to give an offender a second opportunity without the conviction remaining for some state purpose.

(3) The time a respondent was incarcerated prior to the dismissal of the charge is not determinative on the issue of whether a drug charge was properly dismissed pursuant to a state first offender statute.

(4) Defeating deportability is a permissible purpose of a state first offender statute. *Rehman* v. *INS*, 544 F.2d 71 (2 Cir. 1976).

(5) Absent a showing of lack of jurisdiction, a Virginia State trial judge's order rescinding sentence, and placing an alien under probation on condition he serve and pay the previously imposed sentence, and that on completion the charge would be dismissed pursuant to Virginia Code Section 18.2-251, as a first offender,

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followed by a later order dismissing the charge, had the effect of defeating deportability based on that conviction.

(6) Lack of jurisdiction to dismiss a criminal charge after conviction must be affirmatively shown. *Matter of Sirhan,* 13 I&N Dec. 592 (BIA 1970); *Matter of O'Sullivan,* 10 I&N Dec. 320 (BIA 1963).

Number 2693-Matter of Cheung. In Deportation Proceedings A-16032302. Decided by BIA, March 28, 1979.

(1) In *Matter of S-Y-L-,* 9 I&N Dec. 575 (BIA 1962), it was held that an alien who was born on the Chinese Mainland could be ordered deported to Formosa (Taiwan) as the country of nationality under the provisions of section 243(a) of the Immigration and Nationality Act because the United States recognized the Nationalist Government as the legal government of China.

(2) In a Joint Communique on the Establishment of Diplomatic Relations Between the United States and the People's Republic of China issued on December 15, 1978, President Carter announced the recognition by the United States of the government of the People's Republic of China as the sole legal government of China.

(3) As *Matter of S-Y-L-* may no longer be considered valid law, the proceedings are remanded so that the Immigration and Naturalization Service may reformulate its policy regarding the designation of country of deportation in cases involving natives and citizens of China.

Number 2694-Matter of Dawson. In Exclusion Proceedings, A-21010716. Decided by BIA, Mar. 28, 1979.

(1) An applicant for recordation of lawful admission for permanent residence pursuant to section 214(d) of the Immigration and Nationality Act must comply with the adjustment procedures outlined in 8 C.F.R. 245.2(d).

(2) Before an application for benefits under section 214(d) warrants approval, the applicant must present competent evidence that a bona fide marriage was celebrated within 90 days of arrival and that he/she is otherwise admissible.

(3) An immigration judge in exclusion proceedings lacks jurisdiction to grant recordation of lawful admission for permanent residence pursuant to section 214(d), nor can he entertain any waiver of excludability which is submitted in connection with such application. *Matter of Dixon,* Interim Decision 2615 (BIA 1977) explained.

(4) Applicant for admission who had previously entered the United States as a nonimmigrant fiance of a United States citizen whom she married within the prescribed 90-day period, but whose application for adjustment had been denied for lack of prosecution, held properly excludable on documentary as well as moral grounds on return from brief visit to Mexico.

Number 2695-Matter of Williams. In Deportation Proceedings A-20201790. Decided by BIA, March 30, 1979.

(1) Respondent applying for withholding of deportation to Haiti under section 243(h) of the Act did not meet burden of proving probable persecution by a preponderance of the evidence. *Henry* v. *INS,* 552 F.2d 130 (5 Cir.91977).

(2) 1976 Amnesty International Report entitled "The Situation in Haiti" was not entitled to more evidentiary weight than that accorded by immigration judge in view of the fact that the report was not significantly probative on the likelihood of persecution to this respondent. *Fleurinor* v. *INS,* 585 F.2d 129 (5 Cir. 1978).

(3) 1976 Amnesty International Report on Haiti does not establish probable persecution by the Haitian Government against either all Haitians or any Haitian who left that country without permission.

(4) Evidence presented by Service, including State Department reports submitted both to the Service and to Congress, found more credible, probative, and timely as to current conditions in Haiti than the 1976 Amnesty International Report.

Number 2696-Matter of M/T "Rajendra Prasad". In Fine Proceedings SFR-10/28.340. Decided by BIA, March 30, 1979.

(1) For purposes of an administrative fine proceeding under section 273 of the Immigration and Nationality Act, 8 U.S.C. 1323, there are essentially two categories of persons considered passengers: (a) those who have paid for passage and have a contract with the carrier and (b) all those who do not fall into the category delineated by the terms "the master, the crew and the owner and his family and servants."

(2) All passengers come within the fine provisions of section 273 of the Act, not merely paying passengers. *Matter of S.S. Greystoke Castle and M/V Western Queen,* 6 I&N Dec. 112 (BIA 1954; A.G. 1954); *Matter of S.S. St. Tropez,* 7 I&N Dec. 500 (BIA 1957), modified.

(3) The provisions of section 273(b) of the Act, 8 U.S.C. 1323(b), calling for an assessment against the offending transportation company equal to the passage money paid by a visa-less passenger is a means of reimbursing a passenger, and does not serve to set a limit on the definition of the term "passenger" under this section. *Matter of S.S. Greystoke Castle and M/V Western Queen,* 6 I&N Dec. 112 (BIA 1954; A.G. 1954), modified.

(4) Where the sole function of an alien is to contribute to the morale of the ship's officers, but not to the functioning of the vessel itself, and the aliens have no background as seamen, no labor obligation to the vessel, are not paid as crewmen, and would not be classified as crewmen under maritime law, they must be considered passengers for purposes of section 273 of the Act.

(5) The spouses and children of ship's officers are not crewmen for purposes of section 273 of the Act, because they do not contribute to the functioning of the vessel itself, and the ship is amenable to fine because the aliens were brought into the United States without the visa required of passengers, into which category they fall.